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International Court of Justice

H0107-0002

Official transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 11 April 1946, 1000-1300, Lord Justice Lawrence presiding.

DR. SAUTER: Mr. President, Dr. Sauter for the defendant Funk. On Saturday last, when sickness prevented me from attending the session, the question came up in which sequence the defense for the defendants Funk and Dr. Schacht should be handled, and the President has expressed the wish to hear my statement on the subject as soon as possible. I have discussed the matter with my client and the defense counsel for Dr. Schacht and I am willing to agree and I suggest that the defense for the defendant Schacht come first and that the case of the defendant Funk, for reasons of suitability, should then come after the case for the defendant Schacht has been completed. I wanted to inform you of that, Mr. President, so that the Tribunal is up to date.

THE PRESIDENT: Yes, certainly.

MR. DODD: If your Honors please, I should like to call the attention of the Tribunal to the fact that with respect to the documents for the defendant Rosenberg, we have finished our conversations with Dr. Thoma on a number and there are a number of matters which will require a hearing before the Tribunal. We were not able to agree on a number of them and, as I said yesterday, we are prepared to be heard on the applications of Dr. Schacht.

THE PRESIDENT: Very well, we will arrange a time for that. Now, Dr. Kauffmann.

DR. KAUFFMANN: Dr. Kauffmann, counsel for Kaltenbrunner. Mr. President, I am now beginning the defense in the case of the accused Kaltenbrunner.

I need not emphasize how extraordinarily difficult the defense is, considering the extraordinarily severe accusations which have been raised. The way I am picturing the case for the defense is that with the permission of the Tribunal, I would quote from the short document book, quote two short documents first and that after that, with permission of the Tribunal, I would propose to put the defendant into the witness stand and that after that, I

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would examine one or two witnesses.

THE PRESIDENT: The Tribunal thinks that that course would be appropriate but I wanted to draw your attention ---

Dr. Kauffmann, there were four witnesses who were called for the prosecution, Ohlendorf, Hoellriegel, and Wisliceny ---

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THE PRESIDENT: You asked for leave at an earlier stage to cross examine witnesses called for the Prosecution--Ohlendorf, Hoellriegel, Wisliceny, and Schellenberg, and the Tribunal then ordered that they might be recalled for cross examination but that they must be called before your witnesses. Therefore, the Tribunal wants to know whether you wish to call any of those for cross examination. You do not?

DR. KAUFFMANN: No, Mr. President, neither Ohlendorf nor Wisliceny nor Hoellriegel nor Schellenberg.

THE PRESIDENT: Very well.

DR. KAUFFMANN: May I now read those two documents I have mentioned? To begin with there is the affidavit from the witness Dr. Mildner, which is contained in the document book. I am asking the Tribunal to take judicial notice of it. It is KR-1. I am now reading:

AFFIDAVIT

"I, the undersigned, Dr. Mildner, at present in prison in Nurnberg, make the following affidavit in answer to the questions put by attorney Dr. Kaufmann, for presentation to the International Military Tribunal:

"First question: Give details of yourself.

"Answer: I was entrusted with certain tasks for the Gestapo for about ten years. From 1938 to 1945 I came under Office IV, which is the Gestapo of the chief security department Berlin, the RSHA. I was only in the RSHA Berlin itself for approximately three months, that is to say, from March to June 1944. Apart from that I was mostly the chief of provincial branches of the Gestapo.

"Second Question: What can you say in regard to Kaltenbrunner's personality?

"Answer: From my own knowledge I can confirm the following: I know the defendant Kaltenbrunner personally. His private life was beyond reproach. In my opinion his appointment to chief of

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the security police and the SD by the senior security police officer took place because Himmler, after the death in June 1942 of Heydrich, his chief rival, would suffer no man beside him or under him who could have endangered him in his position. The defendant Kaltenbrunner was no doubt the least dangerous man for Himmler. Kaltenbrunner had no ambition to gain recognition for himself by outstanding deeds or to possibly replace Himmler. There was no question of a lust for power in his case. It is wrong to call him 'the little Himmler.'

"Third Question: What attitude did Kaltenbrunner adopt towards office IV, Amt IV (Gestapo)?

"Answer: I know of no specific limitation of the defendant Kaltenbrunner's competence with regard to the offices which came under the RSHA. On the other hand, I can say that the chief of Office IV, Mueller, acted independently by virtue of his long experience and no one, not even the office chiefs of the remaining offices of the RSHA, were given any insight into his tasks and the methods of his office, No. IV. He had, after all, immediate protection from Himmler.

"Fourth Question: Did you ever see any orders for executions by Kaltenbrunner?

"Answer: I have never seen an original order--that is to say, something signed in handwriting from the defendant Kaltenbrunner. I know quite well that orders for protective custody bore a facsimile of his signature or his typewritten signature. This was a custom which had grown in Heydrich's time.

"Fifth Question: Did orders for executions rest in Kaltenbrunner's or Himmler's hands? Who was responsible for the setting up and running of concentration camps?

"Answer: I know that execution orders rested in Himmler's hands. So far as I know no other sections of the RSHA could issue such orders without his permission. I know, furthermore, that ... concentration camps were under one particular main department,

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namely, the SS Economic and Administrative Main Department, the chief of which was Pohl. The concentration camps had nothing to do with the RSHA. This applies to the whole of the administration, food, treatment, camp regulations, etc. The inspector of concentration camps was Gluecks. The official channels were therefore: Himmler, Pohl, Gluecks, Camp Commandant.

"Sixth Question: Did Kaltenbrunner order any of the concentration camps to be evacuated?

"Answer: Nothing is known to me that the defendant Kaltenbrunner had issued any orders regarding the evacuation of concentration camps.

"Seventh Question: Did Kaltenbrunner issue the order to arrest all Danish citizens of the Jewish religion and transport them to the concentration camp at Theresienstadt?

"Answer: No. The reason why I can answer this question exactly is because I myself as a member of the Gestapo was concerned with this matter in Denmark in September 1943. The chief of the security police and SD had received the order in September 1943 to arrest all Danish Jews and transport them to Theresienstadt. I flew to Berlin to try and get this order canceled. Shortly afterwards a Himmler order arrived in Denmark according to which the Jewish operation was to be carried out. Kaltenbrunner, therefore, did not issue the order. I didn't speak to him even. He was in fact not even in Berlin.

"Read and found correct.

"Nurnberg, 29 March 1946.

"Signed: Dr. Mildner."

The next affidavit comes from Dr. Hoettl.

MR. DODD: We are faced with a new problem. I do not think this question has arisen heretofore. The Prosecution submitted a cross interrogation to this man Dr. Mildner, and we are not quite certain as to just how we should proceed. Should we now offer our cross interrogation, or at a later stage?

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THE PRESIDENT: We think you should read it now.

MR. DODD: Very well.

DR. KAUFFMANN: Mr. President, may I just say one thing about that. This is the first time that I hear that the Prosecution has also put questions to the same witness, which he has also answered. I think this is the first case of this kind which has been put before the Tribunal.

Wouldn't it have been a suitable solution that his answers would have been communicated to me, since I submitted my affidavit to the Prosecution a very long time ago?

THE PRESIDENT: They certainly should be. The Tribunal thinks they certainly should have been communicated to you at the same time that they were received.

DR. KAUFFMANN: Is the answer to be read nevertheless? I would rather like to raise formal objection to that and ask the Tribunal for a decision.

THE PRESIDENT: Mr. Dodd, why were these not submitted to Dr. Kauffmann?

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MR. DODD: This cross-affidavit and interrogatory was only taken yesterday, and the material just wasn't ready until this morning. We regret that, and had it been ready it would, of course, have been turned over to him. If he would like to have some time to look it over, we, of course, would not object.

THE PRESIDENT: Dr. Kauffmann, in the circumstances we will postpone the reading of these cross-interrogatories in order that you may consider them, and, if you think it right, you may object to any of the questions or answers and we will then consider that matter.

DR. KAUFFMANN: Thank you.

May I now read the second and last document.

"I, the undersigned, Dr. Wilhelm Hoettl, make the following affidavit in answer to the questions put by attorney Dr. Kauffmann for presentation to the International Military Tribunal."

THE PRESIDENT: Can you give a number to this document?

DR. KAUFFMANN: Yes, KR No. 2.

"The first question:

"Give exact details of yourself. What was your official position in the SD? Where did you know Dr. Kaltenbrunner?

"Answer:

"I was born on the 19th of March, 1915, in Vienna; by profession a historian. My occupation up to the time of the German collapse was that of Consultant to Amt VI--Intelligence Service Abroad--of the RSHA. After the Anschluss with Austria in 1938 I voluntarily joined the SD. Coming from the National Catholic Youth Movement, I set myself the aim of steering a moderate political course for my country.

"I made the acquaintance of Kaltenbrunner in 1938; he knew that the above was my aim.

"In 1941, on the personal orders of Heydrich, I was called before the SA and the SS and Police Court for being under religious influence and for being unreliable from the political and ideological point of view, and had to join the ranks as an ordinary private. After Heydrich's death I was

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pardoned and, at the beginning of 1943, drafted by the Chief of Amt VI of the RSHA, Schellenberg, into his office. Here I was in charge of the Vatican Referat Department, as well as of some State Referats in the Balkans.

"When Kaltenbrunner was appointed Chief of the RSHA at the beginning of 1943, I was continually in touch with him at work, particularly since he was endeavoring to draw the group of Austrians in the RSHA nearer to him.

"The second question:

"Give an estimate of the numbers involved at the Head Office of the RSHA in Berlin.

"Answer:

"At the Head Office in Berlin, Department 4, the Gestapo, had approximately 1500 members; Department 5, Criminal Police, 1200; Departments 3 and 6, Intelligence Service at Home and Abroad, three to four hundred each.

"The third question:

"What is understood by SD and what were its tasks?

"Answer:

"Heydrich organized the so-called Sicherheitsdienst--Security Service, known as the SD--- in 1932. Its task was to give the highest German authorities and the individual Reich offices information on all happenings at home and abroad.

"The SD was purely an information service and had no sort of executive authority. Only individual persons belonging to the SD were drafted to the so-called special units, Einsatzkommando, in the East. They thereby assumed executive positions, and they resigned from the SD during that period. There were Special Purpose Groups and Special Purpose Units of the Security Police and the SD up to the last, also in Africa, even in 1944, in Hungary and Czechoslovakia.

"These Kommando units had nothing to do with executions. Their tasks had generally become similar to those of the Secutiry Police in the meantime. As far as I know, executions were only carried out in Russia, and these on the strength of the so-called Commissar Order by Hitler.

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Whether these units ceased their activity after Kaltenbrunner was named Chief of the RSHA, or whether they continued, I do not know.

"Fourth question:

"Do you know about the Eichmann operation to exterminate the Jews?

"Answer:

I only learned exact details about the Eichmann operation at the end of August 1944. At that time Eichmann himself gave me detailed information. Eichmann explained, among other things, that the whole action was a special Reich secret and was known to only very few people. The number of members of this unit, in my opinion, could hardly have been more than a total of 100 people.

"Fifth question:

"What do you know about the official relationship between Eichmann and Kaltenbrunner?

"Answer:

"I know nothing about the official relations between the two. Eichmann may well have had no direct official contact with Kaltenbrunner. He often asked me to arrange a meeting with Kaltenbrunner for him. Kaltenbrunner always refused.

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"Sixth question:

"What was the relationship between Kaltenbrunner and the Chief of the Secret State Police, Mueller?

"Answer:

"I cannot give any details about their official relations. It is a certainty, however, that Mueller always acted quite independently. He had gained great experience in Secret State Police matters over a period of many years. Himmler thought highly of him. Kaltenbrunner didn't think anything of him at all. Kaltenbrunner had neither technical experience in police questions nor any interest in them. The Intelligence Service took up the main part of his attention and all his interest, expecially in so far as it concerned foreign countries.

"Seventh question:

"Who wasin charge of the concentration camps?

"Answer:

"The SS Office of Economic Administration had sole charge of the concentration camps; that is, not the RSHA, and therefore not Kaltenbrunner. He, therefore, had no power to give orders and no competency in this sphere. Judging by my opinion of him as a man, Kaltenbrunner certainly did not approve of the atrocities committed in the concentration camps. I do not know whether he knew about them.

"Eighth question:

"Did Kaltenbrunner issue or transmit an order according to which enemy aviators who made forced landings were to be given no protection in the event of lynch justice being carried out by the population?

"Answer:

"No, I never heard about anything of the kind from Kaltenbrunner, although I was with him a great deal. As far as I can remember, however, Himmler issued an order of this kind.

"Ninth question:

"Did Kaltenbrunner issue orders that Jews were to be killed?

"Answer: No, he never issued such orders, and, in my opinion, he could not issue such orders on his own authority. In my opinion, he was opposed

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to Hitler and Himmler on this question; that is, the physical extermination of European Jewry.

"Tenth question:

"What church policy did Kaltenbrunner pursue?

"Answer:

"As a Vatican advisor, I often had the opportunity of speaking to him officially on this subject. He immediately supported my suggestion, made to Hitler in the spring of 1943, that a change in church policy should be effected so that the Vatican could be won over as a peace negotiator on this basis. Kaltenbrunner had no success with Hitler, as Himmler took up the strongest attitude against him. The German Ambassador, Baron von Weizsaecker, with whom I discussed the matter, had equally little success with the Pope. Bormann had an eye kept on him for this reason.

"Eleventh question:

"Did Kaltenbrunner intervene in foreign policy in the interest of peace?

"Answer:

"Yes. In the Hungarian question, for example, he was successful in March 1944, when the German troops occupied Hungary, in persuading Hitler to moderation and in preventing Roumanian and Slovak units from marching in as planned. Thanks to his support, I was able to prevent a planned National Socialist government from being formed in Hungary for another six months."

And now, with the permission of the Tribunal, I shall call on the defendant Kaltenbrunner to go to the witness stand.

THE PRESIDENT: There appears to be some difficulty with the No. 1 channel, and the Tribunal will, therefore, recess.

(A recess was taken)

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THE PRESIDENT: Now, Dr. Kauffmann, are you going to call the defendant?

Dr. Kauffmann (Counsel for Defendant Kaltenbrunner): Mr. President, I have committed a small error. I did not read page five of my document book. That is question 12 and 13 of the affidavit, which I failed to read. May I apologize and may I have your permission to read that now?

THE PRESIDENT: Yes.

DR. KAUFFMANN: I continue on page five.

" Kaltenbrunner wanted the old Austro-Hugary to be re-established on a federative basis.

" Since 1943 I had favoured the view when talking to Kaltenbrunner that Germany must endeavour to end the war by peace at any price. I told him about my connection with an American office in Lisbon. I also told Kaltenbrunner that I had recently made a contact with an American office in a neutral country through the Austrian resistance movement. He said he was also prepared to travel to Switzerland with me and start the negotiations with an American representative in order to avoid further pointless bloodshed.

"12th Question: Do you know that Kaltenbrunner instructed the Commandant of Mauthausen Concentration Camp to hand over the Camp to the approaching troops?

"Answer: It is correct that Kaltenbrunner did give such an order. He dictated it in my presence, to be forwarded to the Camp Commandant.

"13th Question: Can you say something briefly about Kaltenbrunner's personality?

"Answer: Kaltenbrunner was a completely different man from Himmler or Heydrich. He was therefore strongly and fundamentally opposed to both of them. He was appointed Chief of the RSHA, in my opinion, because Himmler did not want to run the risk of having a rival like Heydrich. It would be wrong to call him 'little Himmler'. In my opinion, he was never in complete control of the large office of RSHA and occupied himself very much more with the Intelligence Service and the influencing of policy as a whole, being very little interested in police and executive tasks. He regarded the former as his particular sphere."

Then come the Signature and the date and the certificate.

THE PRESIDENT: Have you any more documents?

DR. KAUFFMANN: No.

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THE PRESIDENT: Now you wish to call the defendant?

DR. KAUFFMANN: Yes.

ERNST KALTENBRUNNER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Ernst Kaltenbrunner.

Q Repeat this oath after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing, so help me God.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. KAUFFMANN:

Q During the last two years of the war, since 1943, you have been the Chief of the security Police and the SD and the Chief of the so-called Main Security Office of the Reich, the RSHA. You are aware, of course, that you are particularly accused. The Prosecution is accusing you of having committed crimes agains the peace, and you are accused of intellectual participation in connection with crimes against humanity and international law. Finally, the Prosecution is connecting your name with the terror of the Gestapo and the cruelties in the concentration camps. I now ask you, Do you assume reponsibility within the framework of these considerable accusations, which are known to you?

A In the first place, I should like to state to the Tribunal that I am fully aware of the serious character of the accusations against me. I know the hatred of the whole world is directed against me, particularly since Mueller, Himmler and Pohl are no longer alive, which makes me the only man who is facing the world and the Tribunal to answer to them. I am aware that I shall have to tell the truth in this courtroom and that the Tribunal and the world must be put in a position wherein they can recogonize the events in Germany during this war, understand them and pass judgment on them.

In 1943--that is to say, two years before the unfortunate end of this war, I was called into an office. Regarding the details of that I shall make a state-

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ment later, but right at the beginning, I would like to state that for everything that happened since my appointment to the Chief of RSHA, in that department, for every wrong that was committed there, as far as it happened under my actual control, which means that I know about it and about events, for all that, I assume responsibility.

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May I ask permission so that my defense counsel may put questions to me so as to direct my memory.

Q Will you briefly describe your career until you became a public figure, until you entered Austrian politics, that is 1934.

A I was born in 1903. My father and my grandfather were respectable solicitors. My mother comes from a simple family. She was adopted by the Belgian Ambassador to Rumania and lived there for twenty-five years.

I spent my childhood in the country and I received the best education by being placed in a good family and at the same time I was brought near to the Austrian character. I attended secondary school, I passed my matriculation examination and in 1923 I went to high school -- university in Graz. First of all I studied chemical technical sciences at the technical high school and later when my father returned from the war seriously ill and when the possibility arose that I might have to take over his law practice, I studied law. I completed my studies with a grade of Doctor of National and State Law in 1926.

I had to go through a difficult time. I had to earn my own living and the expenses for my studies and for two years I worked as a coal miner during the night shift.

Q Would you be slightly more brief.

A And thank God I met the German worker and knew him as well as anybody.

Q Will you be brief and come to the vital period, 1934.

A After leaving the university and for a period of seven or eight years I became a solicitor's apprentice, which was necessary under Austrian law. Then I practiced at the courts of law for one year.

Q I am interrupting you for one moment with a question. Is it correct that in 1932 you became a member of the Party?

A I became a member of the Party in 1932 after I had belonged to the Austrian Home Protection Squad for several years.

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Q Did you enter into the SS later on?

A I think it was at the end of 1932 or at the beginning of 1933.

Q Is it correct that before 1933, as is stated by the Prosecution, you were a legal adviser of an SS unit?

A That statement requires clarification. In my immediate home country, Upper Austria, I have spoken at National Socialist meetings and in the first place or rather exclusively so as to serve the Anschluss movement. I was a legal adviser just as any other lawyer at that time who, because of economic difficulties, was prepared at the end of the day to help poor members of a Party, which in this case was the National Socialist Party, and to give them information without charging them.

Q Is it true that later in 1934 the Dollfuss Government had you arrested and that you, together with other leading National Socialists, were sent to the detention camp near Kaisersteinbruch? What was the cause for that?

A That is correct. I think the political situation which existed in Austria at the time must be briefly described.

The government at that time was in the hands of a group of men who had very little backing among the people. There were two different groups who did not participate in the government; in the first place those groups on the political left, the Social Democrats, that is the Austro-Marxist Party, and in the second place another, a very much smaller group, the National Socialists. The government at that time not only had the National Socialists but other parties too delivered into detention camps so that any political upheaval and meetings or demonstrations could be avoided.

Among those arrested at that time numbering approximately eighteen hundred Nazis I was to be found too.

Q Did you have another conflict with them and were you eventually subjected to a trial for conspiracy against the government and were you released from arrest in the end? Give that, if

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you will, in a few sentences, that is as to the cause of all this.

A This was very much later, I was arrested in May, 1935. I should say first of all that in the meantime the attempt of the National Socialist revolt had taken place in Austria in May, 1934. That attempted revolt, which unfortunately caused the murder of Dollfuss, was defeated and severe measures were introduced against a large number of National Socialists as revenge. One particularly severe measure was that thousands of National Socialists lost their jobs by declaration and the necessity existed that there be an appeasement amongst the population and an alleviation

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of the government policy had to be brought about. That was done by two men, Langot, the Deputy President of Upper Austria and a farmer and engineer by the name of Reinthaler.

That appeasement started in September or October 1934 and I was invited to join that action.

Q Will you please, if possible, work over to recent times, that is 1938.

A But I was in no way implicated by this revolt in 1934 and that is why I was invited to join in that appeasement action. Within that program it was demanded by the government itself that certain men take up connections with the party leaders and maintain that connection, that is to say the SA, SS and so on. With the knowledge and by the wish of the government and the police departments in question I took up a connection with the SS.

In May 1935 I was suspected of establishing a legal connection with the SS and accused of high treason and arrested. I remained in custody for about six months and put before the military court martial on a charge of high treason. I was, however, acquitted since the government itself admitted that with their knowledge that task had been permitted and given me. There was left a sentence for legal secrecy which was, however, served by my custody.

Q What was your share in the Anschluss in Austria in March 1938 and what was the participation of the SS?

A Shortly after my activities in connection with the appeasement action of Reinthaler I got in touch with circles first of all concerned with theAnshluss and secondly, with those circles who had set their aim so that a revolutionary movement and development should be achieved. Conditions in Austria were to be cleansed peacefully and at the same time the idea of the Anschluss was to be advanced and the government was to be brought over to that idea.

In 1937 and 1938 I attempted to come into a closer and more personal contact with the later Minister Seyss-Inquart and I made his political train of thoughts my own.

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Q Are you of the opinion that the plebiscite in Austria in April 1938 corresponded with the wish of the nation or not?

A The plebiscite of April 10, 1938 was completely in accordance with the will of the Austrian population. The result of 99.7 per cent for Anschluss was perfectly genuine.

Q On the occasion of the Anschluss is it right that you were made an SS brigadier and leader of an SS sector and promoted?

A Yes, but first of all I would like to say this about the Anschluss. The statement and opinion of the Prosecution is completely incorrect when they think that National Socialism in Austria at that time could in any way be compared with the development which had taken place in Germany during the same period. The development of Austrian National Socialism was completely different.

The starting point was the abnormal depression in Austria and over and above that therewas the Anschluss movement and its originator National Socialism and in that way through Anschluss to National Socialism. That was the line that was adopted by nearly all National Socialists and by no means the ideology of the original Austrian Party program.

I think that has to be stated and I think I also ought to say that the Anschluss movement in Austria was backed by the people and that the plebiscite in the various districts, like the Tyrol and Salzburg, in 1925 or 1928 in more than ninety per cent of the votes being cast in favor of the Anschluss and that these facts have to be taken into consideration.

In 1928 the National Council of Austria and the Austrian Bundes Government had tried the resolution of the National Council which said that both these organizations had resolved to join the Reich and would not depart from that resolution.

THE PRESIDENT: Dr. Kauffmann, I do not think you need go into these subjects as to reasons why they were in favor of the Anschluss in such detail.

Can't you hear?

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Q Are you of the opinion that the plebiscite in Austria in April 1938 corresponded with the wish of the nation or not?

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THE PRESIDENT: Dr. Kauffmann, I do not think you need go into these subjects as to reasons why they were in favor of the Anschluss in such detail.

Can't you hear?

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Will you try to confine the witness to less detail and get on to the material period?

DR. KAUFFMANN: It is not coming through to me but I know what you mean.

My thought was that the defendant was being held responsible for his participation in the Austrian revolution and I did want him to say a few sentences about that before this Tribunal but I am willing and prepared to go over to another subject.

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THE PRESIDENT: The witness was giving us the figures in particular plebiscites long before the Anschluss and that seems to me to be quite unnecessary detail.

BY DR. KAUFFMAN:

Q So then in September, 1938, you became SS Gruppenfuehrer; is that correct:

A Yes. After the Anschluss had been realized, I was appointed the leader of the General SS in Austria, which took the shape of the sector Upper Donau. At that time I had been promoted Brigade Leader without going through the lowest steps of SS leaders. They were great. And I think it was in December that I was appointed Gruppenfuehrer; so that my rank was coordinated with that of all the other Main SS Unit Leaders in the Reich.

Q Will you continue regarding your history and your development in the SS? Were you in 1941 appointed Higher SS and Police Leader in Austria?

A In March, 1938, I became a member of the Austrian Government. I had the position of the Secretary of State for Security in Austria, which was part of the Ministry of the Interior. That Austrian Government was dissolved in 1941; that is to say, they handed their office activity over to the forms of administration which were prevalent in the Reich; so that the Secretary of State for Security was also dissolved. And so, as to put me on the budget and my salary could be paid, I was appointed Higher SS and Police Leader, I think, in July, '41.

Q And after the 30th of January, 1943, you became the chief of the Security Police and the SD; that is, the so-called Chief of the Reich Security Main Office. How did that nomination arise? Did you have connections to Himmler; and what was said between you and Himmler on the occasion of your appointment?

A My activities between '41 and '43 will be briefly referred to be me so as to make it clear why I was called to Berlin.

The Prosecution has accused me that I had led the Security Police in Austria, and in that respect the Prosecution's point is taken.

When the Criminal Police and the Security Service in Austria were led centrally from Berlin and the jurisdiction of the minister concerned, Seyss-Inquart and his Secretary of State, Kaltenbrunner, had been completely taken away. My activities as Higher SS and Police Leader is different from the activities of the

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same men in the Reich, since in Austria we were limited to merely representative tasks. In other words, my activities did not take up all my time. During those two years I have acted in accordance with my political intentions and from Austria I ran a rather large political intelligence service

In the first place, I regretted that the Reich did not make available for them the resources, economic and otherwise, of Austria, and, also, the Reich with incredible shortsightedness did not realize or fall back upon Austria's task in the direction of the eastern political sphere. Thus, my reports met with increased interest in Berlin. When Himmler continuously raised accusations against me that his intelligence service, which was run by Heydrich in the Reich, did not produce the necessary political results, then Himmler, eight months after Heydrich's death, felt obliged to look for a man who could protect him against these accusations which were being made against him by Hitler.

Q And what did you discuss with Himmler?

A In December, 1942, he ordered me to go to Berchtesgaden, where he was at the time because the headquarters were at Obersalzberg. He told me what accusations were made against him by Hitler and he demanded that I should create a central intelligence service in the Reich. We had a lengthy discussion about that with reference to my reports of the previous years. He was of the opinion that the best solution would be if I were to take over the Reich Security Main Office and make it the basis for the creation of such an intelligence department. That I refused and I stated as my reasons that my position in Austria had been that of an observer and a critic regarding, in particular, the inner political developments in the Reich. I stated to Himmler in detail just why the Germans in Austria had been disappointed and what I considered the dangers to be in connection with a tiredness, a lustlessness of the Austrians towards the Reich, the same Austrians who four years ago had been enthusiastic about the Reich.

Q May I interrupt you for just one moment. It is correct, of course, that you were made the Chief of the Reich Security Main Office. Are you trying to say that you did not take over the executive powers?

A I'm just coming to that. But, first of all, I must refer to that first conference with Himmler, and the second one took place two months later,

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and on that occasion I was given the order which you are referring to. But I should like to state right now--and this goes like a trend through my entire career through to the last day of the war—that, even on that first occasion, I stated to Himmler in which main points I had differences with the National Socialists and the inner policy of the Reich, its foreign policy, its ideology, and the legal basis on which the German state existed. I stated emphatically that the administration in the Reich was too centralized; that Austria was criticizing that centralized system severely, particularly since some centralization had also been granted to other countries, such as Bavaria, for instance.

I put to him that the creation of a new German criminal law, the form in which it had been done, was wrong, and that German criminal law was casuistic, whereas the Austrian criminal law was based on a tradition of more than one hundred years and had proved itself best and had been recognized abroad.

I put to him that the conception of protective custody of the concentration camp was not approved in Austria, but that everyone in Austria strictly wanted his right to be pronounced through means of a law court. I explained to him that anti-Semitism in Austria was taking place in a completely different shape and form and had developed differently and was being handled differently. No one in Austria, I said, had ever thought of impeding the limits of anti-Semitism, as was laid down in the Party program. I also said that there was hardly any understanding for the fact in Austria that through the Nurnberg laws the limitations of the Party program in this respect had been impeded.

In Austria, since 1934, there had been a perfectly peaceful tendency towards immigration on the part of the Jews, and any personal or physical persecution of Jews was completely superfluous.

I'm referring to a document, which is in thehands of the Tribunal. It's a report from a President in Vienna, I think, dated December, 1939, which makes it abundantly clear. It is based on figures that between '34 and '39, I think, a total of 200,000 Jews had supplied more than 100,000 immigrants who had emigrated from abroad. Those were the problems which we discussed at the time.

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Q And what did Himmler tell you?

A Himmler said that he knew best; that I had no police training at all, but that, in fact, all my previous activities had been that of political intelligence work. So that, therefore, by taking over the RSHA, I could not be given the task of executive work, such as the criminal police or the state police; that I would not want to have anything to do with it, but that my task, for which he was appointing me, namely, the construction and extension of an intelligence service, would in fact be impeded by that.

I stated to him that there were only strongest personal differences between Heydrich and myself. There were pertinent differences in that way. Heydrich was an expert in police matters, whereas I was not, and the policy with which he, Himmler, and Heydrich had already discredited the Reich up until that time could not be transferred to me since my honor and my family were too holy for me for that.

He quietened me down by saying, "You know that in June '42, Heydrich was assassinated and that I, myself, since his death"---and this was about six or sevel months after Heydrich's death--"was handling his entire office myself, and that's the way I propose things should be left; since I"---this means Himmler---"will retain the executive powers and exercise them personally. I have my well-trained experts, Mueller and Nebe, at my disposal for this purpose, and you will not have to concern yourself with it all. You take over the intelligence service, that is departments 5 and 6, and make them the basis for your intelligence service."

I said at that time that the SD alone could not be made the basis for an intelligence service, an intelligence service which until that time had been so narrow minded because of Heydrich's tendancies, and which had been forced more and more to become an executive organ for the supply of intelligence material, such as apparatus, from the beginning. An intelligence service, I said, would have to be smaller and, most of all, I had considered it lunacy that there should be a dividing line between military and political intelligence. No country in the whole world, except Germany and France, had divided their intelligence service into two parts. I had demanded, therefore, that to start with he would have to get a Fuehrer order on the strength of which the intelligence system of the armed forces, which rested in the Department OKW,

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counter intelligence, should be coordinated with the SD and should be given personnel, which would have to be found in the proper manner.

Q I am interrupting you. Can you tell me in one sentence whether that coordination which you just mentioned took place?

A Yes, it did.

Q And then another question--

A The union was achieved by an order of Hitler, dated the 14th or 15th of February, 1944.

Q Now, my next question to you. After what you have just explained, did Himmler relieve you of executive tasks and did this become effective within the RSHA, and was it made known to your department chiefs? Did this exclusion of executive powers become apparent to the outside world and, if so, how?

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A After this conference with Himmler in December, 1942, he told me to leave, since I wasn't even prepared to accept the position in the RSHA under those conditions which he had offered to me, which were that the heads of the executive departments would retain that position. He was very angry with me--so angry that he didn't shake me by the hand and expressed his displeasure in various other ways which I felt during the subsequent weeks.

Towards the middle of January--I think it was the 16th or 18th--I received a telegram ordering me to report to head-quarters, which since then had been transferred to East Prussia. I assumed that in accordance with the wishes I had expressed to him he would now give me a full task. I went to headquarters with the view that I had at last achieved what my brothers or my other male relatives had been doing. But I was wrong. He told me that he had talked to the Fuehrer and that he had considered the centralization of the intelligence service appropriate, that he was going to enter into negotiations with the armed forces, and that I would be given the task of organizing and extending the intelligence service. The state would continue by which I continue the executive powers.

If you ask me whether such limitation was at once apparent to the outside world, then I have to answer that it was never announced, so that formally the Prosecution are right when they are accusing me. As far as the outside world is concerned, I have never introduced those limits. To that I can only say that I can refer to the words of my then superior, and I thought I could rely on them. He stated to me in the presence of Nebe and Mueller that he had given those two the corresponding orders, which were that there should be immediate contact with him as there had been since Heydrich's death and that they were to report to him directly and received their orders from him directly.

I am stating here emphatically that special tasks which had been given to Heydrich--such as, for instance, the task of solution of the Jewish problem--were not only not known to me at the time but they were never given to me at all. Nominally I was the chief of the RSHA, and as such I dealt with the immediate tasks, as I said before, of creating this new intelligence service; and those I regarded asmy tasks. But Himmler's contact with the

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state police and the criminal police continued as it was, and it wasn't until much later that I could find that it was often carried out in the name of the chief of the RSHA, that is to say, my name, without that I knew of these orders when they were issued or that I had even seen them.

The chief of the Gestapo and the criminal police carried out these orders from Himmler, but they did so in the manner that they used my name as chief of the RSHA and signed with it. I shall probably have to state in detail later on that they continued habits which originated from Heydrich' time, who had the entire executive powers in his hand and who deputized corresponding powers to Mueller and Nebe. But I never had those powers from the beginning, and therefore I couldn't have deputized any powers to anybody else. Perhaps I ought to add, on the question of my responsibility, by saying that possibly I never have taken the necessary care to insure that the situation was clarified and to show that there would be no order of the criminal police with my name on it. The fact that I did not concern myself with that sufficiently is Himmler's fault, but partly probably my fault too.

Q I draw your attention to a statement from the chief of Department IV, Ohlendorf, on January 3, 1946, made before this Tribunal. I am putting it to you briefly, and will you please make your statement.

This statement of Ohlendorf's refers to the question of the executive power, and Ohlendorf said, upon being asked a question: "If you put the question whether Kaltenbrunner could have caused executive functions to be carried out, then I must answer that with yes. But if, on the other hand, you refer to Mueller and Himmler, excluding Kaltenbrunner in this connection, then I must draw your attention to the fact that in accordance with the construction of the system of the RSHA Mueller was Kaltenbrunner's subordinate; and therefore orders from Himmler to Mueller would be orders to Kaltenbrunner also. So therefore it was Mueller's duty to keep Kaltenbrunner informed."

And then he goes on to say, "I can say that it is definitely known to me that one expression was often used, 'to the last washerwoman' Himmler would reserve himself a final decision personally, and that whether Kaltenbrunner had no powers in that connection I cannot say."

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I now ask you what you will do to rectify his statement in its important points.

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A This requires an explanation. He is right in as far as according to the organization of the RSHA nothing had changed since Heydrich's time. So that as far as official channels were concerned he could certainly say "Himmler, Kaltenbrunner, Mueller." But during the conferences, and when Himmler gave orders, it was clearly excluded. And to the remark regarding that Himmler reserved himself the decision as far as the last washerwoman, that proves that the condition which arose was that, contrary to the time of Heydrich, the medium between Himmler and Mueller was no longer active. That intermediary was I. So that in fact the immediate orders from Himmler went immediately to Mueller.

Q I am now coming to the individual accusations raised by the Prosecution. I now submit to you a document and ask for your statement. It is the document L-38, USA Exhibit No. 517.

THE PRESIDENT: You mean 038-PS?

DR. KAUFMANN: L-38, USA 517. May I ask whether the Tribunal have that document?

THE PRESIDENT: It came through before as 038. You mean L-38, do you?

DR. KAUFMANN: Yes, L-38. I am calling it Kr-3. This is concerned with the accusation raised during--

THE PRESIDENT: Dr. Kaufmann, has this already got an exhibit number? You don't want to give it another exhibit number.

DR. KAUFMANN: Very well. If it isn't necessary then I won't

BY DR. KAUFMANN:

Q The question here is, first of all, whether documents of atrocity orders bore your name either in facsimile or in typewritten form; and question two is whether you have given such protective custody arrest orders, whether original orders therefore are available; and, lastly, wheter if this is not applicable you knew of them. Please, will you make a statement in connection with this document?

A I must say in this connection that not once in my whole life did I ever sign or even see a single protective custody arrest order. During interrogations before the trial a number of protective custody arrest orders

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were put before me in connection with certain questions which were put to me. Everyone of thos orders was signed with my name, either with typewritten letters or in teleprint letters, and I think in one case there was a facsimile signature.

Q You will admit that as such this statement of yours isn't very credible. It is an incredible story that such orders were signed with his name. How do you explain that? How do you explain that fact, a fact which can be proved on the strength of the documents which have your signature?

A I hadn't finished my statement. I had stated that this signature "Kaltenbrunner" in protective custody arrest orders could only have arisen in that way--that the chief of the department, Mueller, continued to do what he did under Heydrich, at which time he was allowed to do so, which was that the name of the chief of the RSHA was put on those orders and that he authorized his subordinates to do so. Quite obviously he continued to do so during my time, because otherwise these orders couldn't have been put before me here.

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But he has never informed me of this and he never had authority from me to do this. To the contrary, this was altogether impossible and also superfluous, because he was immediately under Himmler and he had Himmler's authority so that he might just as well have written "Himmler" or "By order of Himmler", or "By authority of Himmler" . I admit that this remains as a fact before this Tribunal, which the Tribunal might not believe me or couldn't believe me, but this is the true state of affairs and Himmler never gave me a cause to definite my attitude in this connection, since he told me that I would not be given these executive tasks.

Q What you are trying to say, therefore, is that your signature was used, that it was misused?

A Mueller did not have authority to use it.

Q Mat it known to you that protective custody as such was possible at all and that it was admissible and that has been carried out very often?

A The conception of protective custody has been discussed between Himmler and myself as early as 1942 but I think even before that, on two occasions -- I talked on one occasion to him and another occasion to Thierack. We had correspondance about this conception. I consider protective custody, as it was handled in the German Reich, only in the smallest number of cases, as being a necessity in the interests of the State, or to put it best or make more accurately, that I consider that only then can it be considered a measure justified by the war. Apart from that, my views were against this conception and against protective custody altogether and I often spoke against it, using legal arguments and turned against it. On several occasions, I have talked to Himmler and even Hitler about this. I spoke about a meeting of public prosecutors, I think, in 1944, and I publicly voiced my views which were against this. Since old times, it was my viewpoint that a man's liberty must be counted amongst his highest privileges and that only a proper court based on the constitution can pass judgment, which would deprive him of that liberty.

Q I am now coming to the reasons which were contained in such orders for protective custody arrests. As one of the reasons for protective custody, it is stated that the man was responsible for activities hostile to the State or the spreading of untrue rumors or as a result, refusal to work, religious propaganda

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Please, will you express your views on the oreasons for these protective custody arrests. Were these to be approved of?

A No. I consider these reasons for protective custody to be wrong and I think I had better explain in detail. At any rate, my attitude is due to the fact that all the perpetrations, which have been mentioned here, might just as well have been dealt with by a proper law court and might have been prosecuted by the state. For that reason, I consider protective custody as such, with these reasons, as being wrong.

Q So thay if I understand you right, then, I can summarize your attitude by saying that you want to say that you had no knowledge of protective custody arrest orders; that you had given no authority for them and that you haven't signed them, but since these arrest orders were issued within the setup of this department, you consider that you ought to have had knowledge of them. Is this a correct summary or is it incorrect?

A It is correct.

Q We now come to another accusation raised against you by the prosecution. The prosecution called you the intellectual perpetrator and said that you as the Chief of the Security Police and the SD were responsible for the murdering and illtreatment of civilian persons through the so-called Einsatzgruppen (Action Commandos). I am going to quote a few sentences from the statement made by the witness Ohlendorf here in this courtroom on January 7, 1946, and, of course, the statement made by Ohlendorf implicates you and therefore I am asking you to make your statement. Ohlendorf says with reference to the Einsatzgruppen (Action Commandos) that after you entered, you would have had to occupy yourself with that problem. "He, Kaltenbrunner," says Ohlendorf "would therefore know the documents," referring to these Einsatzgruppen, "because they came under one of his departments." He goes on to say with reference to the valuables taken away from the executed persons, that these had been sent to the Reich Ministry of Finance or to the RSHA, and he finally states that officers for these Action Commandos were recruited from amongst the leading officials of the State Police and only a small percentage were drawn from out of the SD. What is your view on it, your statement on the question of whether you knew of the existence of these action groups and whether you knew of that significance?

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A The existence of these groups described by Ohlendorf were completely unknown to me. I heard later that they had existed, but many months later. In this connection, I want to say the following. It is known to the Tribunal, from Ohlendorf's statement and from decrees which have been discussed here, originating from Himmler and Hitler, that orders for the killing of people had been given. These action groups or action commandos, during the time that I was in office, were never formed. These groups which had been active up to the same time that I came into office, were also formed before I took over the RSHA, or rather, they had been dissolved or had come under a new superior. I don't know whether the witness Ohlendorf has stated here just when he returned from his Action Commandos.

Q 1942

A That is before I came into office. The action groups must later on have come under the jurisdiction of the Higher SS and Police Leaders in the occupied territories, and this is even more probable, they were under the jurisdiction of the chief of the anti-bandit units. I cannot answer your questiondifferently, since my possibilities of investigating the whole complex were not at my disposal.

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I think you also asked me whether it is known to me that valuables, which had been taken away from executed persons, had been sent to the SD or the Ministry of Finance. I know nothing of such but I do know that Himmler had given a order to all police authorities, not only the security police but also other organizations in the occupied territories, be it the Order Police or be it the anti-bandit units,or be it those sections of the armed forces which were later on under his command, saying that all such property would have to be surrendered to the Ministry of Finance.

Q Were these actions groups due to an order from Hitler or were they the result of an order originating from the RSHA?

A It can only be an order from Hitler.

Q You just said that later on you had heard about the existence and significance of these action groups. When, as far as the time is concerned, did you get that knowledge?

A I assume that this was at the time when I first reported to Hitler or it may have been the following day when I reported to Himmler in November 1943.

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Q 1943?

A Yes.

Q If you had knowledge at that time that the action groups existed and what they signified, then the question arises what your attitude about them was, and, if you should have been against them, just what did you do to terminate their existence? Did you have a possibility to do something or not?

A I said earlier that under my orders there was never the formation of an action group. Their existence, or their previous activities, became known to me late in 1943. I knew that I would be against such a misuse of men under the RSHA and that I would have to defend myself against it. I think on the 13th of September, 1943, I called on Hitler, on the occasion of a visit of the just-liberated Mussolini. I saw him, but an attempt to talk to him failed, because of this state visit.

Consequently, in November I had to go to Headquarters to report on my activities, and on that occasion I talked to the Fuehrer about the fact that the Einsatz Commandos had become known to me. However, it wasnot only about that. It was on that occasion that I approached him for the first time about the entire Jewish problem, and about the fact which had also just become clear to me, namely, that Himmler was giving orders directed against the Jews.

I want to make a detailed statement on this subject, if you will go through that problem in these details. However, I would like to supplement my statement now and say that action groups no longer came into the picture so far as I was concerned, because the entire personnel was transferred to the Anti-Partisan Units on the identical day when I joined the office in Berlin. I think I can remember distinctly that von dem Bach-Zelewski, who was the Chief of the Anti-Partisan Units, was appointed in January of 1943, and this may be the reason for the fact that I received no reports regarding the activities of these action groups.

Q I am now turning to another document, L-51, US Exhibit 521. This is an extremely grave document, to which I want you to make a statement.

Zucker is the Adjutant of the Camp Commander of the concentration

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camp at Mauthausen.

A Is this photostat copy the same?

Q Yes, they are identical.

He is reporting regarding an execution order, referring to 12 or 15 American parachutists who were captured in 1945.

Will you please look through the document and state to the Tribunal whether you have issued this order, whether you were responsible for issuing such an order?

A Yes. We had discussed, you and I, the same document, yesterday, and therefore it is known to me.

I state that this incident and this order never did come to my knowledge until this document was put before me, or until it was put before me by the interrogator here in Nurnberg.

Q Did you know Ziehreiss?

A As I have already said once, I have never had authority to issue an order for an execution, that is to say, to pass sentence of death, and sign it independently. Such an authority was only held, apart from Hitler, by Himmler.

Q To supplement this, I wish to say that the prosecution have presented execution orders which had the signature of Mueller. Will you say something about that?

A If an execution order had Mueller's signature, then he could only have done so on the strength of an order from Himmler, or on the strength of a judgment passed by a proper court.

Q It would be fairly obvious, then, for one to say that even if Mueller had authority to issue execution orders, then you would have had to have authority to a much greater degree?

A No, that is not true at all, because Himmler never gave me such power, nor was the organization under Himmler such that I could have had it. After Heydrich's death he retained these powers, and that was not changed when I came into office.

Q The events referred to in this document are of such significance,

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particularly since these are foreign parachutists, that one would, first of all, have to ascertain whether high offices in Berlin, including your RSHA, would have known about this. Did you receive no knowledge of the matter afterwards?

A I want to make a statement on that. The events as such most certainly did not come to my knowledge.

THE PRESIDENT: Have you finished with Document L-51?

DR. KAUFFMANN: No, I am still concerned with the document, but I am about to leave it.

THE PRESIDENT: Well, ought you not to refer him to the particular incident which is referred to towards the end of the document, where it says "Concerning the American military mission which landed behind the German front in the Slovakian or Hungarian area in January 1945"? It goes on, then, to say that the, I think it was, Adjutant of the Camp said: "Now Kaltenbrunner has given the permission for the execution. This letter was secret and had the signature, 'signed, Kaltenbrunner'."

I think you should put that to him.

DR. KAUFFMANN: This is a short document, and I think he knows every single word of it, but I will put it to him again.

H0107-0040

BY DR. KAUFMANN:

Q It says here:

"I estimate the number of those persons arrested to have been 12 or 15. They were wearing a uniform which was either American or Canadian, brown-green colors, and a red beret. Eight or ten days after their arrival, the order for their execution was received by means of a radio message, or a teleprint. Standartenfuehrer Ziehreiss came to see me and said, 'Now, Kaltenbrunner has approved of the execution. The letter was secret, and had the signature, signed, Kaltenbrunner.'

"These men were then shot and their valuables were given to me by Oberscharfuehrer Niedermeier."

Would you, very briefly, define your attitude?

A It is quite impossible that that whole event was ever brought to my knowledge, or that it could have taken place with my participation. This is not only a crime against the laws of warfare, this is particularly an action which would produce the most serious foreign political consequences.

As far as such an event is concerned, it is out of the question that Mueller, or, even if I consider that I was his superior, that any of us could have acted in such a case. There must definitely have been a previous, detailed conference between Himmler and the Fuehrer.

It may be assumed, furthermore, that, quite definitely, some one in the legal department concerned must have been heard on the subject first, and in connection with such an event there would have had to be either a decision from the Fuehrer or an order from Himmler. However, all that is not known to me.

If, therefore, the statement is made here that the order had my name on it, then this can only mean that this was an order which, as I have described before, had my name on it wrongly, since I never had authority to issue an order for an execution. Therefore, the signature should have been Himmler, or, by Himmler's order, Mueller.

Q So that you attribute this signature to a misuse?

A No. I believe that this is not my signature at all, but that

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it should have said "Himmler". It cannot be assumed that Mueller would have signed his or my name in such a matter.

Q We are now coming to another problem. I am referring now to document 1063-PS, USA Exhibit 492, which is a letter from the RSHA, dated June 26, 1943. It has the signature, "Signed, Dr. Kaltenbrunner", and the letter is addressed to all Higher SS and Police Leaders. It refers to the construction of labor education camps.

Will you please look through the letter? The prosecution are accusing you of having established such camps. Please explain what the facts are in this connection, and please state whether that letter originated from you.

A In connection with this I have to make the following statement. The fact that my name has been affixed to this document with a typewriter proves to me that this order had not been shown to me before it went out. Otherwise, I would have signed it personally.

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Q Do you know of a ....

A But as far as I can remember, I got knowledge of this order afterwards.

Q What is a labor education Camp? Are they identical with a concentration camp?

A No, labor educationcamps were camps in which men--they were Germans--had not served in the labor corps, had failed to serve in the labor corps, and who, in spite of repeated reminders, didn't do so; all foreign workers who had left their place of work without permission, and had been apprehended; and workers who were caudght during raids on railways stations, and roads, and who were not in any permanent employment.

In such labor education camps it was proposed that they were to be held there for 14 to 56 days.

Q It says in this letter that these labor education camps, so far as administration and orders were concerned, came under the state police departments and furthermore, were subordinate to the Commanders of the security police and SD. Did you have knowledge of that?

A Actually, the breach of contract for work in the Reich was a violation of the compulsory labor service of the German citizen. It was a perpetration which could have been dealt with by the law courts just as well, but because of the enormous number of workers employed in the Reich who were not only Germans, but amounted to 15,000,000 or 20,000,000, of which 8,000,00 foreigners had to be added, it would have been impossible to deal with hundreds of thousands of cases of failure to work or breach of contract, or wrongful leaving of their place of work.

It would have been impossible to bring proceedings in existin courts, and of course, police departments would not have sufficient prison accomodations which would have sufficed to accomodate all these cases and to punish them with short terms. On the strength of these arguments, such a labor education camp was established.

Q Did you, in principle, approve of the establishment of such camps?

A Yes, principally I approved of them. Although I didn't partake in

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this particular order her, I had, nevertheless, knowledge of it. Later and on the strenth of the conditions existing in the Reich I considered it necessary and proper.

Q Did you have knowledge regarding the treatment of detainees and for what legth of time they were sent to these camps? What their ration were, how they were employed?

A As I said, these labor education camps were to serve the purposes of detaining people for a period of not exceeding 56 days. I think that that was only possible after the man had previously been sentenced for 3 similar offenses. Transfer to labor education camp...

THE PRESIDENT: Your question was whether you knew the condition in the camps? You are not answering it at all.

DR. KAUFMANN: Will you please immediately answer my question?

THE WITNESS: I think you asked me...

DR. KAUFMANN: I asked you whether you know anything regarding the rations, treatment, employment of the detainees in these camps?

A I only knew that labor education camps had the power to work for the public employment of labor. That is, for public utilities, railroad maintenancem and damage due to air attacks, and in order to do that work detainees

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from labor education camps were used. They have been seen by the entire population so that the impression which these prisoners made . . . .

THE PRESIDENT: It still is not answering the question.

DR. KAUFFMANN: I put three exact questions to you. I want three exact answers. Do you know anything about the treatment, the rations, and the employment of these detainees from these camps? Did you have any knowledge of it or not?

A I have referred to their employment. Yes, I had. The other two factors I did not know from my own observations;

Q Did officers of Department IV ever report to you on this?

A Not officers of Department IV, but reports repeatedly came from the interior political information service, and I have discussed this problem and the employment of such workers for emergency work.

Q Did you see any cause to interfere?

A I had no cause to proceed against these camps since a means of these camps and detainees used didn't become known to me.

Q I am now coming to another document -- PS-2542, USA Exhibit 489. This is a statement, an affidavit from Lindo.

He states that at the beginning of 1943, and by order of Himmler, Soviet Russian political commissioners and Jewish soldiers were taken out of prisoner-of-war camps and taken away to be shot. For this purpose they were transferred to a concentration camp. Furthermore, he states that the Chief of Department IV, Mueller, had given the execution order for this purpose and signed it.

If the Tribunal so desires I shall quote a few sentences from this document. What, Defendant, is your statement with reference to this document?

A This order of Himmler's was not known to me and may I point out that during 1941 up to 1943 this order was used, which means, in the main, during the time when I was not in Berlin.

Q I am now reading a very implicating passage. Paragraph 4. Will you please make a statement regarding the question whether this report on these facts referred to the time after 1943 or the time before that, or whatever you may be able to say about that?

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A I know the passage.

Q "In the prisoner of war camps at the Eastern Front, there were former action groups which were commanded by members of the secret state police. These groups were attached to the camp commandant and they had the task of dealing with prisoners-of-war who came under the orders which had been issued, and which were to be executed, as they had been sought out and reported to RSHA."

In Paragraph 2, I am quoting the last paragraph:

"Those prisoners-of-war were formerly, first of all, discharged and then taken to a concentration camp for their execution. Now I am asking you what knowledge did you have of these proceedings?

A I had no knowledge of these facts. And what's more, it is impossible that I could have had knowledge of them. Orders which were issued in 1941 and which, as this witness says, continued to be in force until 1943, it is impossible that I could have had those orders in time to stop them even during the last days.

Q But actually, it cannot be denied that within the framework of the RSHA, there was a department for an organization which was under the secret state police and that this department, beginning in 1941, until the middle of 1943, did exist and that it did issue and carry out such orders? It appears possible to assume that you too must have known something about these written documents and humanly impossible acts prohibited by International Law, and that you were informed of them?

A I was not informed of them.

Q I am now turning to the question of concentration camps and the responsibility of the witness in that connection.

THE PRESIDENT: We will adjourn now.

(The Tribunal adjourned until 1400 hours)

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File

Official Transcript of the International Military Tribunal in the Matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 11 April 1946, 1400 to 1700 hours, Lord Justice Lawrence presiding.

(The Defendant Kaltenbrunner resumed the witness-stand.)

MR. DODD: Dr. Kauffmann has told me that he has an opportunity to read two cross-interrogatories, which we wish to submit -- the cross-interrogatories of Dr. Mildner and Dr. Hoettl. I told Dr. Kauffmann that it might be well, in order not to disquiet the Defendant Kaltenbrunner, if they were read before he completed his examination.

THE PRESIDENT: Do you agree that it would be better that this cross-examination should be read now, so that the Defendant can deal with any points he wishes on it?

DR. KAUFFMANN: Yes, that will be satisfactory.

COLONEL AMEN: The first affidavit, if it please the Tribunal is the affidavit of Dr. Rudolf Mildner:

"I, the undersigned Dr. Rudolf Mildner, made the following affidavit in answer to cross-interrgations by representatives of the Office of United States Chief of Counsel relating to my affidavit of 29 March 1946, made in response to questions by Dr. Kauffmann for presentation to the International Military Tribunal:

"Question No. 1: Confirm or correct the following biographical data:

"Answer: December 1939, I became Chief of the Gestapo Office in Chemnitz.

"In March, 1941, I became Chief of the Gestapo Office in Kattowitz.

"In September, 1943, I became Commander of the SIPO and SD in Copenhagen

"In January, 1944, I became Inspector of the SIPO and SD in Kassel.

"On 15 March 1944, I was made deputy chief of Groups IV A and IV B of the RSHA.

"In December, 1944, I became Commander of the SIPO in Vienna.

"In December, 1944, I became Deputy Inspector of the SIPO in Vienna.

"All of these appointments after January, 1943, were made by Kaltenbrunner as Chief of the Security Police and SD.

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"Question No. 2: Is it not true that while you were Gestapo leader at Kattowitz you frequently sent prisoners to Auschwitz for imprisonment or execution; that you had contacts with the Political Department (Abteilung) at Auschwitz with regard to inmates sent from the district of Kattowitz; that you visited Auschwitz on several occasions; that the Gestapo 'SS Standgericht' frequently met within Auschwitz and you sometimes attended the trial of prisoners; that in 1942 and again in 1943, pursuant to orders by Gruppenfuehrer Mueller, Chief of Gestapo, the Commandant of Auschwitz showed you the extermination plants; that you were acquainted with the extermination plants at Auschwitz since you had to send Jews from your territory to Auschwitz for execution.

"Answer: Yes, these are true statements of fact.

"Question No. 3: With respect to your answer to Question No. 5 in your affidavit of 29 March 1946, did all orders for arrest, commitment to, punishment and individual executions in concentration camps come from RSHA? Was the regular channel for orders of individual executions from Himmler through Kaltenbrunner to Mueller, then to the concentration camp commandant. Did WVHA have supervision of all concentration camps for administration, utilization of labor, and maintenance of discipline?

"Answer: The answer is yes to each of the three questions.

"Question No. 3-a: Is it true that conferences took place between SS Obergruppenfuehrer Kaltenbrunner and SS Obergruppenfuehrer Pohl, Chief of the WVHA and Chief of Concentration Camps? Was Dr. Kaltenbrunner acquainted with conditions in concentration camps?

"Answer: Yes, and because of these conferences and on the occasion of discussions with the two Amt Chiefs, Gruppenfuehrer Mueller, IV, and Gruppenfuehrer Nebe, RSHA, the Chief of SIPO and SD, SS Obergruppenfuehrer Dr. Kaltenbrunner should be acquainted with conditions in concentration camps.

"I learned from SS Gruppenfuehrer Mueller, Chief of Amt IV, that regular conferences took place between RSHA and Amt Group D of WVHA.

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"Question No. 4: Is it not a fact that in July or August of 1944, an order was issued to commanders and inspectors of the SIPO and SD by Himmler, through Kaltenbrunner as Chief of the SIPO and SD, to the effect that members of all Anglo-American Commando Groups should be turned over to the SIPO by the armed forces; that the SIPO was to interrogate these men and shoot them after questioning; that the killing was to be made known to the armed forces by a communique stating that the commando group had been annihilated in battle; and that this decree was classified Top Secret and was to be destroyed immediately after reading?

"Answer: Yes.

"Question No. 5: With respect to your answer to Question No. 7 of your affidavit of 29 March 1946, is it not a fact that:

"a) After you sent a telegram to Mueller requesting that the Jewish Persecution be stopped you received an order by Himmler that the Jewish actions were to be carried out;

"b) That you then flew to Berlin for the purpose of talking with the Chief of the SIPO and SD, Kaltenbrunner, personally, but that since he was absent you saw his deputy, Mueller, head of Office IV, of the RSHA, who, in your presence, wrote a message to Himmler containing your request that the persecutions of the Jews in Denmark be stopped?

"c) That shortly after your return to Copenhagen you received a direct order by Himmler sent through Kaltenbrunner as Chief of the SIPO and SD, stating that "The Anti-Jewish actions are to be started immediately."

"d) That for the purpose of carrying out this action the "Special Commando Eichmann," which was under the Gestapo, was sent from Berlin to Copenhagen for the purpose of deporting the Jews in two ships which it had chartered.

"Answer: Yes, to each question a, b, c, and d.

"Question No. 6: Is it not a fact that the action of "Special Commando Eichmann" was not a success; that Mueller ordered you to make a report explaining the causes for the lack of success in

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deporting of Jews; and that you sent this report directly to the Chief of the SIPC and SD, Kaltenbrunner.

"Answer: Yes. That is right.

"I have read the above questions and answers as written and swear are true and correct," etc.

And now, may it please the Tribunal, the cross affidavit of Wilhelm Hoettl.

THE PRESIDENT: Did you want to say something?

THE DEFENDANT KALTENBRUNNER: I wanted to say to the High Tribunal that I wish to testify to this immediately.

THE PRESIDENT: Yes, you will have an op ortunity in a moment. The purpose of having it read now was that your Counsel might ask you any questions about it, and then you can make any comment that you want to; Colonel Amen will go on and read the other cross examination, and then your own Counsel will continue your examination in chief. Do you understand?

THE DEFENDANT KALTENBRUNNER: Yes, I understand, but I should like to say first it would be easier for me if I might state my view on this document first and then later on treat with the second.

THE PRESIDENT: We can not have the matter interrupted in that way. You will be able to deal with it in a moment. Go on Colonel Amen.

COLONEL AMEN: The affidavit of Dr. Mildner dated 9 April 1946 will become Exhibit 791 US, and the affidavit of Wilhelm Hoettl which I am about to read, dated 10 April 1946, will become Exhibit 792-PS

"I, the undersigned, Dr; WILHELM HOETTL, make the following affidavit in response to cross-interrogation relating to an affidavit executed by me on 30 March 1946 answering questions put by Dr. Kaufmann for presentation to the International Military Tribunal.

"1. With respect to question No. 3., please give the follow-ng information:

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"a. Explain the basis of your statement that when persons belonging to the SD were transferred to Einsatz Kommandos of the SIPO and SD, they resigned from the SD; your attention is invited to the fact that Ohlendorf, the head of the SD, has testified to the contrary.

"b. Explain the basis for your statement that Einsatz Kommandos had nothing to do with executions. Your attention is invited to the fact that your testimony in this regard is likewise in direct conflict with the head of the SD, Ohlendorf.

"c. What was Hitler's so-called Commissar-order and when did you first acquire knowledge of this order?

"With respect to 1 a: In my affidavit I did notspeak of a permanent separation from the SD but of a leave of absence for the time of activity with an Einsatzkommando; By that was meant that they did not exercise their SD functions during this time but that this function was inactive.

"With respect to 1 b: My affidavit appears to have been misunderstood concerning this point. I did not state that Einsatzkommandos had nothing to do with executions but only that not all Einsatzkommandos were concerned with executions. I mentioned as an example the Einsatzkommandos in Africa, Hungary, and Slovakia. In connection with that, I said that these Einsatzkommandos had nothing to do with executions; by that I meant not directly with the actual executions (translator's note: i.e. with the actual killing).

"With respect to 1 c: I, myself, do not know the so-called "Commisar Order" of Hitler. Dr. Stahlecker, who commanded an Einsatzgruppe of the SIPO and the SD in Russia, told me in Summer of 1942 that the executions of Commissars and Jews were carried out because of the "Commisar Order" wherein the extermination of the Jews, as the bearers of Bolshevism, was established.

"2. With respect to Question 4, is it not a fact that Heydrich, as Chief of SIPO and SD, gave the initial instructions to Eichmann concerning the extermination of Jews; that in the RSHA

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Eichmann's immediate superior was Mueller, Chief of the Gestapo; that Mueller was first the deputy of Heydrich and later of Kaltenbrunner?

"With respect to 2: Y es, I heard from Eichmann, probably in

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August 1944, that Heydrich had given him these directives.

"It is also correct that Mueller, Chief of the Gestapo, was Eichmann's immediate superior. As far as I know, Mueller was the deputy of Heydrich and later of Kaltenbrunner only on the sector of the Gestapo, as likewise were the other AMT Chiefs on their sectors.

"3. With respect to Question 5, is it not a fact that you know from your discussions with Kaltenbrunner and with Eichmann that they came from the same community in Austria and were exceptionally close friends; that Eichmann always had direct access to Kaltenbrunner and that they frequently conferred together; that Kaltenbrunner was well pleased with the manner in which Eichmann carried out his duties; that Kaltenbrunner was very interested in the extermination work performed by Eichmann; that you personally know that Kaltenbrunner went to Hungary for the purpose of discussing the extermination program in Hungary with officials of the Hungarian Government and with Eichmann and other members of his staff in Hungary? Please confirm or correct these statements and make any statement necessary to clarify your answer.

"With respect to 3: I heard from Eichmann that he knew Kaltenbrunner from Linz and that they served together in 1932 in an SS Sturm (Company) there. I do not know that they were extraordinary close friends or that Eichmann always had direct access to Kaltenbrunner and that they conferred frequently.

"I do not know the details about their official relationship. I do not know whether Kaltenbrunner also had conferences concerning the program of extermination of Jews in Hungary during his stays in Hungary in Spring of 1944. Winkelmann, the former Higher SS and Police Leader in Hungary, must know exactly about that, since, according to my knowledge, he visited the persons of the Hungarian Government together with Kaltenbrunner.

"4. With respect to Question 6.

"a. Is it not known to you that Mueller, Chief of the Gestapo, always conferred with Kaltenbrunner on matters of importance relating to

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the functions of his office - particularly with respect to executions of special inmates?

"b. Did you know that Kaltenbrunner was the Higher SS and Police Leader and State Secretary for Security in Austria after the Anschluss until his appointment asChief of the RSHA, a period of five years, and during which time his attention was devoted exclusively to Police and Security matters?

"c. What is the basis of your statement that the intelligence service took up the main part of Kaltenbrunner's attention and all his interest?

"With respect to 4 a: Details concerning the official relationship between Mueller and Kaltenbrunner are not known to me. However, I could note on several occasions that Mueller was with Kaltenbrunner to report about the work of his department.

"With respect to 4 b: Kaltenbrunner was not exclusively occupied with police and security matters during his activity as Higher SS and Police Leader in Austria or as State Secretary for Security respectively. Without a doubt he had political interests besides, since the Higher SS and Police Leaders were the representatives of Reichsfuehrer SS Himmler in all matters.

"With respect to 4 c: I could note that by virtue of my official relationship with him, members of other departments also frequently expressed themselves in the direction that he favored and furthered AMT III, and particularly AMT VI and MIL.

"5. With respect to Question 7, answer the following:

"a. What did you personally have to do with concentration camps and what, therefore, is the basis for your answer to this question?

"b. Did you know that all orders for commitments to, releases from, and executions in concentration camps came from the RSHA?

"c. Did you know that the RSHA gave direct orders to commandants of concentration camps; state any such orders of which you have personal knowledge.

"d. What are the atrocities committed in concentration camps

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to which you refer in your answer to this question, and when and in what manner did you acquire knowledge that atrocities were committed in concentration camps?

"With respect to 5 a: Personally, I had nothing at all to do with concentration camps. However, I liberated a number of persons from concentration camps, and, therefore, know the difficulties that were made by the concentration camp staffs who always called attention to orders of the WVHA of the SS in such cases since the inmates were needed for the armament industry.

"With respect to 5 b: It is known to me that orders for commitments into concentration camps and discharges therefrom came from the RSHA. I did not know that all such orders came from the RSHA. I have no knowledge of orders for executions by the RSHA.

"With respect to 5 c: I do not know any details and do not know personally any orders concerning this. In the cases in which I intervened for discharges I addressed myself either to Kaltenbrunner directly or to AMT IV. When the processing was of long duration, I received the answer several times from officials of AMT IV that difficulties had come about through the WVHA of the SS.

"With respect to 5 d: When Hungary was occupied by German troops in March 1944, several of my Hungarian acquaintances went to concentration camps. After I had achieved their liberation, they told me of bad treatment and atrocities in Mauthausen Concentration Camp. At that time, I sent an official communication concerning this to the Director of the Linz Gestapo Office, with the request to enquire into this matter with the concentration camp Commandant Ziehreiss. Ziehreiss, however, denied this as I was informed in the reply. In August 1944, Eichmann told me that there was also extermination camps besides concentration camps.

"6. With respect to Question 9, what is the basis for your opinion that Kaltenbrunner opposed Hitler and Himmler on the program for the physical extermination of European Jewry?

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"With respect to 6: Kaltenbrunner told me after his conferences with representatives of the International Red Cross in March 1945 that he was against Hitler's and Himmler's program in the question of the extermination of the European Jews. In my response to question 9 that Kaltenbrunner had given no orders for killing of Jews, the words "According to my knowledge" are missing.

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"7. With respect to question 11, who was the American that you told Kaltenbrunner you had contacted in a Neutral Country in 1943? Did Kaltenbrunner agree to travel to Switzerland with you to meet a representative of the Allied Powers with whom you were in touch through the Austrian Resistance Movement and, if so, whom?

"With respect to 7: The American liaison man in 1943 was a member of the USA Legation in Lisbon. I am no longer familiar with his name. The connection to an American organization existed only with the coming of Fall 1944. Kaltenbrunner's acquiescence to travel there was given me about 20 April 1945.

"8. With respect to Question 12, on what date did Kaltenbrunner order the Commandant of Mauthausen Concentration Camp to hand over the camp to approaching troops and at whose insistence did Kaltenbrunner issue this order and for what reason?

"With respect to 8: I cannot state the exact date of Kaltenbrunner's order to the Commandant of Mauthausen Concentration Camp to hand over the camp to the approaching troops. It should have been during the last days of April 1945 It is not known to me at whose insistence and for which reason he gave this order; possibly this was connected with his discussions with SS Standartenfuehr. Becher whom I met with him at the time.

"Above statements are true; I made this declaration voluntarily and without compulsion, --" etc.

/t/ Dr. Wilhelm Hoettl

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DR. KAUFFMANN: Does the High Tribunal wish the defendant to state his position or reply to these two documents.

THE WITNESS: The defendant also requests that right.

BY DR. KAUFFMANN:

Q What do you have to say about the document? I would like to point out and refer you to question two which seems vital and relevant to me. It says:

"Isn't it true that in the year 1942 and then again 1943 tha Commandant at Auschwitz on the order of Mueller showed an annihilation installation to you it would seem therefrom that the Chief of Amt IV knew about these matters."

A Dr. Kauffmann may I interupt you? What I can establish is that this surprise affidavit is being used for the first time against my first affidavit. I am very grateful. even without having had the opportunity to see this affidavit, that I can now reply in full to this statement.

As to Dr. Mildner, he is asked about his position which he held in the Security Service. He enumerated his positions from 1939 to 1944, his service as an Inspector in Kassel, as a deputy in AmtIV. as a deputy Inspector in Vienna in the year 1944 and as a Commander in Vienna in the year 1944. All of these duties fall into my sphere of activity. "All these offices were created by Kaltenbrunner as chief of the Security Police and SD."

That is incorrect. As far as these high offices are concerned the offices which Mildner had, I never appointed anyone to these high positions.

If Mildner were asked he would have to confirm that. He obviously was not asked about that by the Prosecution. In the case of an appointment of a functionary for the Security Police and the SD I was asked and I was also notified. As an Inspector of the SD and of the Security Police and in his capacity he also had an intelligence section, he was head of a subdivision of AmtIII and IV which were at my disposal as far as intelligence was concerned and as Chief of the Intelligence was concerned and as Chief of the Intelligence Service I had to know who was heading my subdivision in Vienna, in Kassel and in Copenhagen. From these inspectors my intelligence reports were transmitted and that was the only reason that I knew of the appointments and was notified of such appointments

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But I did not have any function of appointing these people; that is entirely misleading, and this misinterpretation might arise through this affidavit of Dr. Mildner.

In reply to Question 2, it is said that in his position in Kommitz and Kattowitz, in the year 1939 and 1941, he had to transport prisoners to Auschwitz for imprisonment and execution. This refers to a period of time before my assuming office and the purely executive power over those offices, which I was never given to carry out and which offices and functions I never took over. He, therefore, cannot have acted as my deputy.

He says in Question 3 that he was present when proceedings against internees were taking place; in other words, that the SS Stangericht often met and that he was present during executions. "In the year 1942, and again in the year 1943, the Commandant of Auschwitz, on orders of Mueller, showed you extermination installations, and you know of such installations; that Jews were to be sent for executions to this camp."

In my opinion, I could perhaps be incriminated on one point; that is, through the question: "Did Mueller once in the year 1943 see such installations or through his presence participate in shootings." First of all, the Prosecution did not show whether this one time took place before I assumed office or whether this one time took place after I assumed office.

Q Will you please be a little briefer?

A Yes, Dr. I have to be able to refute eachindividual word.

THE PRESIDENT: Dr. Kauffmann, we do not want the witness to argue upon this document. If he has anything to say about the facts, then he can do it, but not an argument upon it.

DR. KAUFFMANN: Yes, that is my opinion, also.

BY DR. KAUFFMAN:

Q I am asking you, witness, about an especially important and incriminating point, which seems to be Question 3. Just a minute, I will read it.

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"Is it true that all orders for special executions come from the RSHA; and was the regular channel for executions from Himmler, through Kaltenbrunner to Mueller, and then to the concentration camp commandant?"

To that the answer is "yes". Please answer briefly.

A I have already testified today that the power of execution applied only to the Minister of Justice and to Himmler. In the entire Reich no one else had the possibility or the authority. The official channels were not Himmler, Kaltenbrunnger, Mueller; never did such an order from Himmler come to me; but these orders could only have come from Himmler to Mueller. To put this question to Mueller is for that reason incorrect because Mueller was not with me and cannot know whether I ever received such an order from Himmler. It is just a conclusion which he draws from the entire diagram of authority.

THE PRESIDENT: You are not looking at the words. What he is asked is, "Was the regular channel--?" That is the question. "Was the regular channel for orders from Himmler to you and Mueller?"

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A Your Lordship, I have already stated this morning how the competence of Himmler's was arranged. Then, if he referred to June of 1944, when Heydrich was dead, from that day on in all written orders it was to be published publicly that Himmler was in charge of the entire RSHA and took over all spheres of influence which had been Heydrich's. Then I was made Chief of the RSHA in January. Then all executive powers and competent jurisdiction of the Amt-IV were to remain with Himmler and there was no change in that connection, and Mueller and Nebe were directly under Himmler. For that reason the organizational scheme which applied at the time of Heydrich, did not apply in my time for Amt-IV and V.

Q Now, Question 3-A. There it says, "And did Dr. Kaltenbrunner know about the conditions in the concentration camps?" Of course, we are not told just what is meant by "conditions" there; but it is most likely to be interpreted that those conditions which have been attested to by witnesses are meant. The witness said "yes".

A Dr. Kauffmann, you are overlooking a very important sentence. In the last one here the Prosecution asks, "Did the WVHA have supervision over all concentration camps in administration for the utilization of labor and maintenance of discipline?" This sentence is tremendously important and for the following reasons: The guilt for the destruction of human life is taken from the WVHA to the sphere and the competence of the RSHA, and, if the High Tribunal--

THE PRESIDENT: Just a minute. This is again a long argumentative speech. The only question which arises, it seems to me, upon this Question 3-A, is, "Did conference take place between Kaltenbrunner, Pohl, and the Commander of the Concentration Camps?" If he says that they did not, then that is an answer that he makes to the affidavit; that is the only question of fact.

DR. KAUFFMANN: Yes, that seems to be the vital point, and that is my opinion, also.

BY DR. KAUFFMANN:

Q Please answer yes or no to the question which was just put to you. Did such conferences between Pohl, Mueller, and yourself take place?

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A With Pohl and Mueller? No, I never had conferences with them. I had conferences with Pohl semi-annually because he was the Chief, the Wirtschaft und Verwaltungshauptamt of the WVHA. He was in charge. My entire intelligence service had to receive all its reports from Pohl or from the Reich Finance Office.

Q Now, please answer one further question. The administration of concentration camps, the general treatment, food, etc., who was charged with that responsibility?

A The entire competence and jurisdiction in concentration camps, from the moment that an internee stepsinside the gate until his release or until his death in the concentration camp or until the end of the war, at which time he was liberated, was exclusively under the jurisdiction of the WVHA.

Q One further question to give a complete picture of it. I am assuming that these things were with this special WVHA and were separate from the RSHA. Is it correct that on the basis of activities of the secret police, its protective custody orders, this interning could take place; is that right?

A There is no doubt that that is correct, and especially as a result of special protective custody orders. I have already said that. But some of these were contrary to law. In general, this procedure did not go through the RSHA, but from the occupied territories.

Q Then those offices were concerned with thetaking--they were the police?

A No, not alone.

Q Did they participate or did they collaborate?

A The order of the State Police were also orders by the Court.

Q Now, a further statement. Will you please tell me, in response to Question 5, the action in Denmark?

THE PRESIDENT: Have you dealt with Question 4 yet?

DR. KAUFFMANN: Not yet, Mr. President. I have not dealt with Question 4.

BY DR. KAUFFMANN:

Q I go over to Question 4. Isn't it a fact that in July or August, 1944, an order was issued to the commanders by Hitler through Kaltenbrunner as Chief, according to which the members of all Anglo-American Commando Groups should be

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turned over to the SIPO by the armed forces? Mr. President, this question I wanted to treat comprehensively at a later time but, if you wish me to, I can deal with it now.

THE PRESIDENT: I do not care how you deal with it. I thought you were taking him through this document.

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A I would like to answer the question now, please. The answer to this question is very simple. The Prosecution itself, through a document, put up the contention in a completely different form that the state police had infringed in that it had forged the fact. In that document the Prosecution said that Mueller gave the approval, but here the deponent is told from Himmler through Kaltenbrunner as chief of the Sipo and SD. And that document, as far as I recall--I do not know the number--is signed by Mueller.

Q I will submit that document to you. It is document 1650-PS and USA 246. This document is signed--the heading is Gestapo of Koeln and Aachen. It is dated the 4th of March, 1944. It is top secret. It deals with measures against escaped prisoners--against officers, with the exception of British and American prisoners of war.

THE PRESIDENT: Surely that hasnothing to do with it. This is a document of March and the document that the question refers to is in July or August.

DR. KAUFFMANN: I can't hear.

THE PRESIDENT: The document you have now put forward is a document in March 1944. The question No. 4 relates to a document in July or August 1944.

DR. KAUFFMANN: July or August 1944? I have no document to that effect, your Honor. Perhaps the Defendant can tell us now whether such an order by Himmler existed and whether such an order by Himmler was transmitted through you, yes or no.

A I heard about the existence of this order for the first time here. I believe it is a mistake on the part of the Prosecution that the question was put to Mildner as July or August. I believe the Prosecution means the document of the 4th of March, 1944.

Q Then you are saying that this order is not known?

A I did not know this order nor did I know about it during my term of office.

THE PRESIDENT: Dr. Kauffmann, it is perfectly obvious, isn't it, that the document to which you are referring has nothing to do with this

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question at all, because this document of March concerns measures to be taken against captured escaped prisoners of war who are officers or non-commissioned officers, except British and American prisoners of war. That is the document.

DR. KAUFFMANN: I do not have that document--one of July or August 1944.

THE PRESIDENT: I don't know whether there is a document of July or August 1944 at all; what I am saying to you is that the document which you put to the witness now, of March 1944, can't be the document referred to in Question No. 4, for it deals with an entirely different subject.

DR. KAUFFMANN: Yes. That is right, your Honor. I believe I can explain this, Mr. President. I assume that the testimony by the witness refers to the commando order of Hitler of October, 1942, and that an effect of this order is meant here. I believe it is that way.

THE PRESIDENT: Colonel Amen, can you tell us whether the Prosecution in putting this question were referring to a document of March 1944, or whether they were referring to a document of July or August 1944?

COLONEL AMEN: We, Your Lordship, were not referring to any document that was brought up by the witness. But since that time we have confirmed from another document--which I think we have here at the table, referring to this same document or a document of that same date. Now, the witness' feeling was that that document had been destroyed after reading. But that there was such an order apparently is borne out by another document which we have here which has not come before the Tribunal in any way at all. In other words, this document was brought up in the first instance by the witness himself.

THE PRESIDENT: But has the document to which Dr. Kauffmann has referred of March 1944 got anything to do with it?

COLONEL AMEN: That is not the document and has nothing whatsoever to do with it.

DR. KAUFFMANN: Then shall I pass on to the next question, your Honor?

H0107-0065

THE PRESIDENT: Yes.

BY DR. KAUFFMANN:

Q We are concerned with the Jewish persecution in Denmark. Please give your statement to that.

A The statement in the affidavit of Mildner read by you this morning is correct.

Q Is that your statement?

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A I was never concerned with the removal of Jews from Denmark. I was never concerned with that matter at all, and that such an order could only have been given by Himmler and was given as such was attested to by Mildner.

Q Point C of the question said that shortly after your return to Copenhagen you--that is, the witness Mildner--received a direct order by Himmler sent through Kaltenbrunner as chief.

A I never had a report like that come through my hands. I never received an order like that from Himmler, and it is quite impossible, since Denmark had its own higher SS and police leader who was the direct representative of Himmler right there, who was immediately subordinate to him and was not responsible to RSHA. I could not organizationally give orders to Denmark.

Q Now let us turn to question 6: Is it not a fact that the action of special action Eichmann was not a success and that Mueller ordered you, Mildner, to make a report explaining the causes for the lack of success, and that this report went directly to the chief of the Sipo and SD, Kaltenbrunner?

The witness Mildner said yes to that. Is this report from Denmark known to you?

A I not only do not know this report, but I know with certainty I didn't speak to Himmler--not once but a dozen times. Every report of Eichmann's was received by Himmler direct, and that is shown --

Q As far as Hoettl's affidavit is concerned, let us turn to that--that no vital changes are contained from the affidavit given me. Does the high Tribunal wish for me to put questions on that matter?

Then let us turn to question 5B, that orders for commitments into concentration camps and releases from them came from the RSHA is known to me. That such orders originated with the RSHA I did not know. As far as orders for executions from the RSHA are concerned, I have no knowledge.

H0107 - 0067

What can you say to that?

A Orders for execution through RSHA could only have come if Himmler or Mueller transmitted or ordered the transmission of these orders, but I do believe that took place only in isolated cases and chiefly then if Mueller previously had a judgment by a court of law and had made this known to Himmler.

Q Mr. President, the Defendant asked me several minutes ago to be able to give a statement to the document 1063. He disputes the signature on that document, and I believe that he wishes to say now that his signature was actually his own. It is the document of the RSHA of the 26th of July, 1943. It is 1063B-PS.

THE PRESIDENT: Have you got the original there?

DR. KAUFFMANN: I have only a photostatic copy; not the original, your Honor.

THE PRESIDENT: Well, what is the question?

Q Are you ready?

A Yes. There is a mistake on your part, Dr. Kauffmann. I did not dispute my signature. I did say that I had to assume that I received knowledge of this order after it had been published and that the original document or order did not presumably have my signature. But I do remember, through members of my offic that it was an order the original of which was signed by me, and I

H0107-0068

further gather from the first few words of the decree--"The Reichsfuehrer SS had decreed, etc."--that this order refers to a personal communication which I gave to Himmler, and that this order is based on that personal communication, and that on the 26th of July, 1943, I approached him for the first time for the easing or relaxation or changing of conditions, that in such cases in which up to now people were committed to concentration camps that they would not be committed any longer, They were minor cases. They were to be committed to labor education camps and there was to be a differentiation between concentration camps and labor education camps. Therefore, in my opinion it was the result of my first speaking with him against the system of concentration camps.

I would also like to point out that this decree has Roman No.2C. It is not a decree which came from the police executive offices but from the administrative level.

Q We are quite satisfied with this explanation.

The Prosecution is accusing you for the commitment of racially undesirable elements. How many concentration camps, after your appointment to chief of the RSHA, did you know of?

A At the time of my appointment I knew three concentration camps.

Q And which were they?

A At the end of my official activity in the whole of the Reich there were twelve.

Q How many were there in all?

A There was anthirteenth. That was the SS punishment camp at Danzig. But in total there were thirteen concentration camps in the Reich.

Q How can you explain the chart which you saw which contained many red dots which were alleged to be concentration camps?

A That picture is completely misleading. I saw this chart hanging on the wall. There must be all of those armament centres, factories, etc., in which internees from concentration camps were used for manpower purposes. These must have been characterized as concentration camps on this chart. As far as the deluge of red dots is concerned, I cannot explain it any other way.

H0107-0069

Q Did you differentiate between the smaller camps and the rgular concentration camps and if so, why?

A The difference is very obvious and for the reasons that any worker who worked in armament industries, that is, each internee worked in the same enterprise, in the same concern as every other German or foreign worker. The differentiation of difference consisted only that the German worker at the conclusion of his working hours, at the end of the day, returned to his family, but the internee of the labor camp returned to the camp.

Q You are accused, that you established Mauthausen, that you inspected and visited this camp regularly. The witness Hoellriegel testified having seen you in this camp and further testified having seen you at the inspection of gas chambers and while these gas chambers were in operation. There is an affidavit of Zutter's, which has already been mentioned today, who also allegedly saw you at Mauthausen. The Prosecution therefore concludes that you knew about the conditions which were beneath the human dignity and that you knew about them. I am asking you now, are these pieces of evidence correct or wrong? When did you inspect these camps, and what observations did you make?

A The testimony is wrong. In the after years, until 1943, I did not establish any concentration camp. Beginning 1943, I did not establish a single concentration camp in the Reich. Every concentration camp in the Reich, of which I know, and has been shown here, they were established by Himmler through Pohl; this also applies to Manthausen and also I must especially emphasize this, the latter, camp Manthausen, about the establisment of this camp, every Austrian office or department was excluded but they were surprised because neither the coception of a concentration camp was known in Austria, in that sense, nor the necessity for establishing concentration camps anywhere in Austria.

Q And now, in Germany, in the old Reich.

A What do you mean by that?

H0107 - 0070

Q I am asking regarding your knowledge of conditions there.

A As far as conditions in concentration camps are concerned, I heard gradually step by step and, of course, by way of intelligence through the Reich I heard about these things.

Q Did you testify that you saw gas chambers in operation?

A Never, neither while they were operating nor at any other time did I see a gas chamber.

THE PRESIDENT: You are going too fast. Make pauses between your questions and answers and don't speak too fast. He said that he had gradually by way of intelligence, heard of the concentration camps in the Reich. Is that right?

DR. KAUFFMANN: Yes.

BY DR. KAUFFMANN:

Q Tell us, step by step, about conditions that you had knowledge of in the concentration camps.

A Yes.

Q Do you recall my last question?

A No.

Q Whether you saw the gas chambers inspection and operation?

A Yes, I already answered that never did I see a gas chamber, either in operation or at any other time.

I did not know that they existed at Mauthausen and testimony to that effect is entirely wrong. The detaining center at Mauthausen, I never set foot in it. I was at Mauthausen but not at this camp, but in the labor camp. The total complex of Mauthausen, as I remember it today, extends over an area six kilometers and within, there is a space of perhaps five or perhaps four and a half kilometers of working centers. There are granite quarries, the largest granite quarri in Austria, and they were owned by the City of Vienna.

H0107 - 0071

Q A picture has been shown, according to which, together with Himmler and Ziehreiss, you were shown.

A I was just coming to that. The quarry belonged to the City of Vienna and the City of Vienna had a vital interest in this quarry, to use granite to pave their city and they did not want to be excluded from the use of this and according to a Reich law, as I knew later, with the WVHA, Pohl, this large quarry was expropriated from the City of Vienna and through it the City of Vienna was excluded from the suppy of granite. Now, the city turned to me, that I should approach Himmler on this, and that is how it came about, that when Himmler was visiting and inspecting Southern Germany, he visited Mauthausen and Austria and asked me to accompany him and in that way, it came about that I was with Himmler at this quarry, and whether I was photographed at that time, I don't know. At any rate, I have not seen the picture and I couldn't identify my person, anyway. I might add something. Himmler, neither at this time nor at any other time did Himmler ever take me into a concentration camp or suggested that I do so and as I learned later, he had certain reasons for his not doing so, but I would not have attended such an inspection for I knew very well that as far as I was concerned, he would do with me like he did with others, people whom he invited to such visits, show them imaginary things like "Potemkin villages" and not conditions as they actually were; there were just a few people in the WVHA, who knew how things really were in concentration camps.

Q Now, as far as my question is concerned, you are speaking about a handful of men. You did not belong to this group?

A No, I did not. This handful was Himmler, Pohl, Mueller and Gluecks, and the camp commanders, as far as concentration camps at Mauthausen is concerned.

Q As far as Camp Mauthausen is concerned, there is a document to which we would like to have your views, 1560-PS, which has already been submitted, dated March 1944, the so-called "Kugel Erlass" (Bullet Decree). It deals with the Camp III. "Measures against recaptured prisoners of war,

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officers and non-commissioned officers, with the exclusion of British and American prisoners of war." This document is known to the Tribunal in its contents. I do not believe that I need to read it. The defendant Kaltenbrunner is to give a statement, whether he knew.

THE PRESIDENT: I didn't hear the reference to it, the number.

DR. KAUFFMANN: 1650-PS, US 246.

THE PRESIDENT: Perhaps that would be a good time to break off for ten minutes.

(A recess was taken.)

H0107 - 0073

THE MARSHALL: May it please the Tribunal, a report is made that the defendant Goering is absent from this session of the Court.

BY DR. KAUFFMANN:

Q Have you got the document 1560-PS, and have you read it?

A Yes, I have read it.

Q This, as emphasized, is the famous Decree Bullet. When did you hear of this?

A I did not know the actual decree; this must have been a decree made long before I came into office. And this copy here, of a teleprint, I have not seen either.

Q I am now drawing your attention to the signature. What is it?

A Mueller. Actually, the man was entitled to give such a signature if such a decree did in fact exist. But I would like to say, to supplement my statement, that in 1944-1945 the liaison officer between Himmler and Hitler, who was Fegelein at the time, attended a meeting when I made a report to headquarters, and I heard him mention the name "Decree Kugel", which is "Bullet". The word, as such was absolutely strange, and so I asked him what it was. He replied that this was a Fuehrer order and that he knew no more than that, except that he had heard that this was a special type of prisoner of war.

I was not satisfied with that reply, and so, on the same day, I sent a teleprint message to Himmler in which I asked him to look into an order of the Fuehrer which was called "Bullet". At that time I did not know either that the State Police had concerned themselves with the Decree Bullet.

Then, once more, a few days later, Mueller came to see me, on Himmler's behalf, and he gave me a decree to read which did not come from Hitler, however, but from Himmler, and in which Himmler stated that he was transmitting a verbal Fuehrer order in this connection. Consequently, I replied to Himmler that this Fuehrer decree was once moreindicating to me that the most primitive principles, or the most basic principles, of the Geneva Convention were

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being infringed, that this was going back to a time long before my activities, and that there had been other violations following that. I asked him to intervent with the Fuehrer, and I attached to this letter the draft of a letter from Himmler to Hitler, in which Himmler is asking the Fuehrer (a) to cancel that decree, and (b), at any rate, to inform subordinate departments, or rather, to relieve them of that considerable burden on their soul.

Q What was the success of that?

A It was positive. The Decree Bullet was not cancelled, nor were a number of other equally depressing orders, but, as I said, it was positive inasmuch as in February 1945 there was the first case where Hitler permitted a contact with the International Red Cross to be made. I know that it had been strictly prohibited before.

Q This action on the part of the Red Cross was started by you? And did this action refer to the inspection of concentration camps?

A In that connection I must answer yes and no. The timing did not coincide with the request made in turn by the Red Cross and its President Burckhardt. He had requested immediate contact. Both attempts, I think, coincided more or less.

But please don't misunderstand me. Apart from that, there were, of course, numerous attempts to get in contact with the Red Cross. I would almost like to say, behind Hitler's back. I am thinking, for instance, of the continuous contact the Foreign Office had with them.

Q If I understand you correctly, you are referring to Burckhardt's request to visit, or rather, the request put to Burckhardt--you are citing that so as to alleviate your position?

A Yes, but I should like to talk about that in greater detail. However, I don't want to do it at this stage.

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Q The prosecution have stated that during the time you were in office two concentration camps had been newly established, Lublin, and Herzogenbusch. Did you hear anything about that? Who could have ordered the establishing of these two camps?

A Regarding the date when these two camps were started, I am not informed about that. First, Lublin, and second, Herzogenbusch, so far as orders were concerned, were subordinate to the Chief of Economic Administrative Division, and were under the Higher Police SS Fuehrer, so that in Berlin we had nothing to do with them.

Q Now, will you please answer this question with "yes" or "no"? Had the concentration camp at Auschwitz been known to you as such?

A No, I didn't know about it until November of 1943.

Q Simultaneously with the gaining of the knowledge that the camp existed, did you also learn of the significance attached to this camp, namely, that it was distinctly an extermination camp for Jews delivered there by Eichmann?

A No, and it couldn't have been known to anybody as such since the question put to Himmler, why such a large camp was being installedthere, was always answered by him "because of the proximity of the large armament works." And I think he mentioned some.

At any rate -- and I think this must be emphasized -- there was such a complete secrecy regarding the facts connected with Auschwitz which he arranged for, that the statement, not only of the prosecution but by anybody else who might have been asked by the Americans "What do you know?"-- he could answer with no such statement which might be called credible.

Q One of the most atrocious events is connected with this camp I have mentioned, Auschwitz. This affair Auschwitz was under the spiritual leadership of the infamous Eichmann. I am asking you, when did you meet Eichmann?

A I knew Eichmann from my home town, Linz. The prosecution have stated -- and they have tried to construct this in an affidavit--that I was a friend, or at least a close acquaintance of Eichmann. I would like to make the following statement on this, with particular reference to my oath. My conception of a close acquaintance or friendship is different.

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I knew of Eichmann's existence in Linz, because his father, the director of the electrical construction company at Linz, had to consult my father in his capacity as a lawyer, and they knew each other. And, of course, he, as his father's son, attended the same school which was attended by my brothers.

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However, the atatement of Hoettl, for instance, that I had met him in an SS platoon at Linz, is wrong. When I joined the SS, Eichmann had long gone into G ermany, or had escaped into Germany, as I heard later.

The prosecution state that I met him for the first time in 1932. Possibly I saw him once in Linz in 1932, but the second time I saw him was in February or March of 1945. Therefore, for 13 years I did not see him at all. And after that last meeting I didn't see him again either.

So, on the strength of two meetings, I can drawthe conclusion that I was neither a friend of his nor were we closely acquainted. It is true that on that second occasion he accosted me and said,"Obergruppenfuehrer Eichmann is my name; I come from Linz too." I said, "Pleased to meet you. How are things back home?" There was no official contact.

Q Witness Lammers stated yesterday that in the RSHA there was a conference regardin the so-called "final solution." Did you know about it?

A No. I think that the witness Lammers, and another witness too, stated that Eichmann, possibly under my name, had called a meeting at the RSHA in Berlin, during February or March 1943, a so-called discussion of department chiefs. I have to say to that, to begin with, that I did nominally commence my services on the 30th of January, but that in fact, until May, I was not in Berlin except for certain official visits. I was down in Vienna, where I was creating the basis of an intelligence service, which I was going to take to Berlin en bloc.

Q One further question here. When did you hear for the first time that the camp at Auschwitz was an extermination camp?

A Himmler told me that in 1944, in February or March.

Q What was your attitude?

A That is to say, he didn't tell me, he admitted it.

Q After you heard this, what was your attitude in that respect?

A I did not hear the question.

Q What attitude did you adopt when you heard about it.

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A Hitler's order to Heydrich regarding the final solution of the Jewish problem was unknown to me at the time I took up my office. In the summer of 1943 I gathered from the foreign press and through the enemy radio --

THE PRESIDENT: This isn't an answer to your question. You asked him what he did when he found out that Auschwitz was a concentration camp. He is now making a long speech about Heydrich. You asked for his attitude. I suppose you meant what he did, when he first heard that Auschwitz was an extermination camp, in February or March, 1944. He is now telling us a long story about something having to do with Heydrich.

Q Please try to give me a direct answer to that question. What was your attitude after you heard about that, and quite briefly and very concisely, please?

A Immediately I had knowledge of this fact, just as I had done previously, not so much to find a final solution, but particularly because I disliked this type of treatment for the Jews, I interfered just as I had before. That is why I wanted to explain how I had been taken to the questions regarding the Jews, how I had learned about them, and what I had done against them.

BY THE PRESIDENT:

Q We still don't know what you did --

BY DR. KAUFFMANN:

Q What did you do? I am asking you that.

A So as to explain what I had done I must explain what I heard about the facts and my reactions to them, just as I have to tell you what I heard about it.

Q You told us that. Just explain to us your reactions.

A First of all and repeatedly I protested to Hitler, and a day afterwards, for technical reasons, I protested to Himmler, but not only did I draw their attention to my personal views and attitude and my completely different conception, which I had brought over from Austria, and my humanitarian qualms that I had, but immediately on the first day in practically every one of my foreign intelligence reports right to the very

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end I said there was no hostile power that could in any way have any negotiations with a Reich which had burdened itself with this guilt. Those were the demands I put to Himmler and Hitler. And particularly through the intelligence sector it would have been necessary to create conditions which could have served discussions with the states of the enemy.

Q When did the Jewish persecution end?

A October, 1944.

Q Do you want to say this reaction was in some way due to your intervention?

A I am firmly convinced that that is so, that the major share of this is mine, although a number of other personalities too worked in the same direction. But I do not think that there was anybody who on every occasion reproached Himmler in that connection and I don't think either that there was anybody who would have spoken as openly and frankly and with so much denial to Hitler as I did.

Q The talk given to Eichmann, was that an instruction which came from Hitler and Himmler to the RSHA and then to Eichmann, or did this order have a personal character outside the competence of the RSHA?

A Naturally I can only reconstruct the situation today, since I wasn't there when these orders were issued; but I have clues which make me believe that the channel for this order was: Hitler, Heydrich, Eichmann, and that Himmler was informed shortly after Heydrich and that Himmler after Heydrich's death, together with Eichmann, and probably often excluding Mueller, cooperated directly --

Q The witness Wisleceny who was examined here -- and this I am going to put to you -- stated on the 3rd of January that between April, 1942, and October, 1944, there had been a practical execution of that final solution. Wisleceny stated -- referred to a personal order from Himmler and he also stated that Eichmann was the person who was personally directly charged with the task, but he also goes on to say, "The extermination of Jews continued under Kaltenbrunner without any reduction or alleviation. Correspondence with thoughts from Eichmann at regular intervals went through Mueller and Kaltenbrunner. In 1944 Eichmann personally had called

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on Kaltenbrunner in such reports to Himmler." That was Wisleceny's statement. And now my question: Is this statement the truth in principle?

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A This statement is wrong, but I can clarify it. So as to begin with the end of the story; Wisclocony may have seen my signature but not that report to Himmler which I had received from Eichmann at Wille. It was on a letter which I have written to Himmler and a copy of this I had passed on to Mueller and Eichmann for their information and in which I referred to my last report--verbal report-- to Himmler, regarding the Jewish question, which was the first time that I heard that Eichmann was being active in that respect, and so as to clarify it from the beginningwith Eichmann that I did not want to be associated with that activity I wrote via Mueller who was given a copy of the letter to Himmler, given to Eichmann, and in that it said I now asked him to define his attitude so that since the Fuehrer had ordered me to go to see him and since I wanted to report Himmler's activities and wanted a final solution from the Fuehrer on the whole subject.

Q The witness Hoettl has stated in an affidavit that he had heard from Eichmann that a total number of four to five million Jewish persons had been exterminated and about two million of them in Auschwitz. Have you heard any such figures?

A I have never heard such figures but I accosted Himmler on that subject and asked him whether he had any idea of all these crimes. That is the reason I put that question to him, so that he would understand the extent of the catastrophe which was going on. He replied to me that he had no figures at his disposal. I don't believe it. I am convinced he did have them.

Q Will you assume responsibility in this connection or will you refuse it?

A I must refuse it completely, because I hope that I shall be able to prove through Burckhardt that there was nobody who exposed himself more on this question in favor of another solution.

Q I am now referring to a document, which is R-135, USA Exhibit 289. It is a letter from the Reich Commissar for Riga and dated 18 June 1943. It refers to the Jewish attitude, action at the prison in Minsk. It is a letter from the commandant of the prison, addressed to the Gen-

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eral Commissar for White Ruthenia at Minsk. Please will you make a statement based on that document.

A I can see both from the signature and the name of the addressee that this letter could not have been brought to my knowledge. But I can also see from its contents, which I don't know. Presumably these are events which occurred before I came into office, because if the person is reporting in June, 1943, then this must refer to events which occurred previously to that date and which would have taken a certain amount of time to reach him.

Q Now, Exhibit 473, U.S.A. Exhibit 542, is a letter from the Chief of the Security Police and the SD, dated December 4 1944. This is used by the Prosecution too to make it the basis of severe accusations against Defendant Kaltenbrunner. It refers to the combatting of criminals amongst the Polish and Soviet Russian civilian workers, and as a means for their apprehension the Criminal Police have at their disposal police detention and their transfer to a concentration camp on the charge of being anti-social or dangerous. The document has the signature, "Dr. Kaltenbrunner" What are your views on that?

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A I have no recollection that I have ever signed any such decree.

Q Do you deny having signed this letter at all; or, to be more accurate, did you have any knowledge of the situation?

A No.

Q I now submit document 1276-PS, USA Exhibit 525. The Prosecution has referred to this document. This refers to the effects of Hitler's order dated 18 October 1942, and according to this, parachutists and sabotage troops are to be exterminated and commandos are to be surrendered to the SD. In a letter which has a signature "Mueller", dated 17 June 1944 addressed to the Supreme Command, it says that such parachutists in British uniform, in accordance with Hitler's order, are to be treated in that manner. I am now asking you if you knew of this document signed by Mueller, dated 17 June 1944, and did you in any way know of this affair at all which is the basis of this document?

A I had no knowledge of the whole matter or of this document, but I should like to say in this connection that this order of Hitler's and his basic attitude to the whole question became known to me later. I think this happened at the headquarters in February 1945 and there, before witnesses and publicly, I stated that such treatment of soldiers and prisoners would not only be refused by me, but that any such order from Hitler would not be carried out by me. I think another defendant here is calling a witness by the name of Koller, and I ask you to ask this witness, who was at that time the Chief of Staff of the Air Forces, how I stated in Hitler's personal presence what my attitude was regarding that question, which I heard of for the first time in 1945 as being his personal opinion. I cannot do more than to state before the strongest and most mighty man, who said that anyone who would not obey an order would be shot -- I cannot do more than to say in his presence to the Chief of Staff of the Air Force that I will not obey such an order.

Q I now come to document 2990-PS, US Exhibit 526. This is an affidavit from the witness Schellenberg. According to it, in 1944 a meeting took place between Kaltenbrunner and Mueller. Kaltenbrunner is supposed to have stated that actions of the populations against terrorist fliers must not be interfered with and that, to the contrary, the hostile attitude of the population must be supported. I shall quote a few sentences from the examinatio

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of the witness Schellenberg on 3 January 1946, where he says:

"In 1944 on some other occasion I heard fragments from a conversation which was taking place between Kaltenbrunner and Mueller. The following remark remains clearly in my recollection: 'All departments of the Security Police and the SD--'" This is what Kaltenbrunner said -- "'must be informed that actions on the part of the population against British and American terrorist fliers must not be interfered with.' An order was in existence in this respect from Himmler dated 10 August 1943, which was given to the SD, and in accordance with that order, it was not the task of the Police to interfere with such clashes."

Do you know Schellenberg?

A I will say a few sentences regarding Schellenberg and his credibility with respect to this document. Schellenberg was under Heydrich's protection, and --

THE PRESIDENT: He wants to know whether you know Schellenberg. That is a question you can answer.

The question was, "Do you know Schellenberg." And he goes off into a long speech without answering the question.

Q Did you know Schellenberg? Yes or no.

A Yes, of course. He was the Chief of Department VI.

Q My second question: what was the relationship between you and the Chief of Department VI, and do you consider this statement of his as being true and correct?

A That statement is not true, and I should like to give you the reasons so that the Tribunal can estimate the value of that statement. Schellenberg was Himmler's most intimate friend. By Himmler's order, he remained with him to the last day. He is a man who was acting on Himmler's behalf when contact was made with the Swedish Count Bernadotte. He was the man who at the very last minute, through Mr. Muehse in Switzerland, established a connection which was used to liberate a very few Jewish detainees who were sent to Switzerland and other countries abroad so that a favorable impression could be created for Himmler and Schellenberg abroad. He is the man who, together with another friend of Himmler's, carried out an action so as to use an

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organization of Rabbis to make a pact which was to be published in some large papers in America in headlines saying that there should be a better press for Hitler. These tricks I have criticized before Himmler and Hitler and discredited them and said that it was unworthy of the cause and of the Reich that in so important a matter, this method should be used , such as were being used by Schellenberg. I said the only correct way would be the immediate taking up of connections with the Red Cross. Consequently, I prejudiced Himmler before President Burckhardt, and I forced him to adopt a different attitude in this connection by asking Burckhardt personally to visit these camps.

Q But I put a completely different question.

A Yes, but I have to say this so you can see how Schellenberg and Himmler must be disappointed about what I was doing and why he is now interested in accusing me of breaking my word internationally;

Q In other words, you want to say that Schellenberg was against you and is implicating you wrongly?

A Yes.

Q Now, then, in this document of Schellenberg's the events are referred to in connection with those 50 fliers, and Schellenberg reports that you, together with Mueller and Nebe, had a conference and that you, together, were trying to find an excuse so that the true events could be camouflaged from the public. I am asking you when did you first hear of the shooting of these 50 fliers?

A The case --

Q No, when did you hear of it? A simple question, please.

A The first time that case became known to me was about six weeks after it happened.

Q My next question: Do you want to say with that that you were not participating in the shooting of these men in any way, but that to the contrary you were made acquainted with the matter much later?

A Yes, that is what I want to say.

Q Do you also want to say that the conference of Schellenberg was once more exclusively concerned with the later attempt to camouflage the matter?

A It can only have concerned that.

H0107 - 0086

Q I am now coming to document 835-PS, USA Exhibit 527. The Prosecution has used that document against the defendant. It is the so-called "Nacht und Nebel Decree" -- the "Night and Fog Decree", which is an order from Hitler dated 7 December 1941. Is the expression "Night and Fog Decree" familiar to you? Where did you hear of it for the first time?

A The first time I heard of it was in June 1945 at London.

Q This document which I am submitting to you, or which I have submitte to you, is a letter from the OKW dated 2 September 1944, addressed to the German Armistice Commission. It is signed by Dr. Lehmann, and it says with reference to the decree that it is stated that all non-German civilians in occupied territories who could interfere with the security or readiness of the occupying forces by means of terror or sabotage or in any other way are to be handed over to the Security Police and the SD. In the case of so important a matter, it appears improbable that the matter and the decree were not known to you.

H0107 - 0087

A I have no knowledge and I beg to be given permission to clarify the situation. May I first of all say, please, that in no document is there better proof for the fact that the SD is wrongfully attributed an executive function. No document makes that clearer than this. It says here on line four:

"--in any other way should be handed over to the Security Police and SD."

That is altogether nonsensical to state that as one and the same thing, that matters should be handed over to two different authorities; either it is the Security Police or the SD.

But this error has crept into the German language and it has appeared in Fuehrer decrees which was because Heydrich's designation was Chief of the Security Police and SD and because this was always abbreviated as SD but it is a complete mistake. But I am not trying to save the SD from the consequences of other matters which it may have committed. I am merely trying to ascertain that its executive jurisdiction is wrongfully referred to.

Q Yes, but not only the SD is mentioned, the Security Police is mentioned also.

A Yes and to that I want to say the following. This Fuehrer decree from the year 1941 was not known to me. I am asking you to put yourself in my position. At the beginning of 1943 I came to Berlin. With the exception of a few official visits I commenced by actual activity in May 1943.

In the fourth year of the war decrees and instructions within the Reich and even in the executive sector arrived in thousands of numbers and were accumulating on the desks of the civil servants. It was absolutely impossible for any man even to read them all within a year and it was quite impossible for me to know of the existence of all these orders even if I had considered it my duty to do so. But it was not my duty at all and then I am asking you to consider the following fact.

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The beginning of my activity was February 1, 1943. On February 2 Stalingrad was surrendered and the largest military catastrophy --

THE PRESIDENT: This is a long speech in answer to a question as to whether he had seen this letter. He says he did not see the letter. Then he makes this long speech.

BY DR. KAUFFMANN:

Q I am now putting this question to you. When did you realize what significance this Nacht und Nebel (Night and Fog) decree had and what it meant regarding the treatment of persons it affected? Please give a precise answer.

A Dr. Kauffmann, the existence of the decree was unknown to me. If I had known that this matter would be held against me here then I would have been able to nominate a witness from a prison inLondon who can prove that even then in London I had no idea that it existed. We have talked about that in the cell.

Q The end result, therefore, is that you did not know?

A Yes, absolutely ignorant regarding that decree.

Q I now come to the document PS-526, which has been used by the Prosecution as U.S.A. Exhibit 502.

(Witness handed document.)

This refers to the landing of an enemy cutter in Norway on March 30, 1943. That report contains a sentence:

"Fuehrer order carried out by SD."

The signature on that document is lacking. It is dated May 10, 1943. It is a secret command matter and the heading is "Note."

Please, will you make a statement regarding that sentence: "Fuehrer order carried out by SD."

A The execution of such a Fuehrer order was unknown to me. I draw your attention to the fact that this note is obviously one made by a military department regarding an event which took place at a time after I had come into office but when I was not actually functioning in that office and I could not have had knowledge of it at all.

Q It says at the end of the document:

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"Armed Forces report dated April 6, 1943."

It states further as follows:

"In northern Norway an enemy sabotage troopship was forced to fight when approaching the coast and was destroyed."

Do you know anything about the details of this army report as far as you knew of it at all and did you know anything about its connections to the actual decree?

A No. Of course I received practically every army report but I would not say that any participation of any of my service departments can be gathered from this report.

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Q I now turn to the next document, which has been held against the defendant by the Prosecution, L-37, USA Exhibit 506. This is the so-called "responsibility of relatives", that is to say, it refers to crimes committed against relatives of the guilty persons and this document refers to a letter from the commander of the Security Police and SD at Radom, dated July 19, 1944, according to which male relatives of saboteurs are to be shot and the female relatives are to be sent to concentration camps.

What is your explanation to the Tribunal with reference to that document and the whole matter?

A The report commences with the words:

"The higher SS and police leader East has --" and so on and so forth, and then -- "ordered" or "issued the following order."

The higher police leader East is a department, a service department in an occupied territory which comes directly under the Reichsleader SS and not in any under any of the central departments of the RSHA so that I could not possibly have knowledge of that order. However, the police leaders in occupied territories were immediately subordinate to Himmler.

Q I now come to the next accusation of the Prosecution regarding the concentration camp at Dachau. A document exists which has the number 3462-PS, USA 528. It is a statement by the chief of the State Building Department Gerdes.

The Prosecution is accusing the defendant that the concentration camp at Dachau and its two next camps at Muehldorf and Landsberg were to be removed by bombs or by the use of poison by order of the defendant. I shall read a few sentences from that document. They are on page two of the German text, near the end of the page.

"In December 1944 or January 1945 I was in the office of Gauleiter Giesler in Munich, Ludwig Street 28 and had the opportunity to learn about a secret order from Kaltenbrunner. Gauleiter Geisler received that order in my presence through a courier and after I had been given permission to read it it was destroyed in accordance with the remark on the document: 'To be destroyed after cognizance has been taken.' The order which was signed by Kaltenbrunner was worded roughly as follows:

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"?In agreement with the Reichsleader SS I have instructed all higher police departments that every German who participates in the future in persecution and destroying of enemy flyers will remain unpunished.?

"Giesler told me that he was in contact with Kaltenbrunner since he was considerably worried over the attitude of foreign workers and particularly the inmates of the concentration camps at Dachau, Muehldorf and Landsberg, which were in the path of the approaching allied armies.

"On a Tuesday in the middle of April, 1945, I had a call on the telephone from the Gauleiter ordering me to keep myself available for a night conference. In the course of our conversation that evening Gauleiter Giesler disclosed the fact to me that Obergruppenfuehrer Kaltenbrunner had given him instructions, in accordance with an order from the Fuehrer, that there should be an immediate plan made regarding the liquidation of the concentration camp at Dachau and the two Jewish workers camps at Muehldorf and Landsberg. The instructions stated that these two Jewish workers camps at Landsberg and Muehldorf were to be destroyed by the German Air Force, since the sites of those two camps had lately and repeatedly been affected by hostile bombing attacks. The action was given the cmouflage name 'Cloud One'."

A May I talk about that?

Q Yes please, about that. Do you know Gerdes?

A I do not know Gerdes and I have never seen him.

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Q Do you know Giesler?

A The last time I saw Giesler was in 1943, in September.

Q Was an order of Hitler in existence regarding the destruction of concentration camps?

A No.

Q Will you give a reasonable explanation regarding this document?

A To give a reasonable explanation for that document isn't humanly possible, since it is an invention from "A" to "Z" and a fake. I state that this is a complete and utter lie coming from Gerdes, and I can only draw your attention to the fact that there is material supporting my statement, which originates from the Higher SS and Police Leader in Bavaria, Count Eberstein, who considers Gerdes' statement as being completely incredible. I would like to refer to these accusations in detail as follows:

He says that on a Tuesday, in the middle of April, 1945, he received a call from the Gauleiter to be available for a night conference. He disclosed that he had received an instruction from Kaltenbrunner, in accordance with an order of the Fuehrer, and then it goes on.

Nobody knew better in the Reich just who was responsible for concentration camps and who had to give an order, and Hitler knew that best. He couldn't and wouldn't have given me such an order because, beginning with the 20th of March and until the 15th of April, and by order from Hitler personally, I was in Upper Austria; and, from the 19th of April until the 8th of May, when I was captured, I was at Bayreuth. During the few days when I was in Berlin I can state so accurately just where I have been and what I have done that the question of giving an order in this connection is out of the question. And, anyway, it would have had to happen earlier, if the witness is talking about the middle of April, which would mean that I would have had to talk to Hitler about this earlier than the middle of April, since otherwise, he couldn't have been asked to hold a night conference before the middle of April.

The existence of Jewish workers' camps, having branches at Dachau, was completely unknown to me. And I am asking you to recognize it as crazy that in April of 1945, I could have helped such orders along, when in March,

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1945, I was having discussions with the President of the Red Cross, Burckhardt, regarding the surrender and help to be given to all Jews; when I discussed with him his personal action on behalf of Jews, and when I achieved that purpose.

Q Did you have any possibility to influence the German Air Force in this respect?

A I neither had the possibility to give the Air Force orders, and such an order would have had to go through the Chief of the Air Force and he, of course, would have turned me down because you must realize that at this point, when everyone knew that the war had come to an end, the Air Force wouldn't have lent its hand to a terrible crime.

Q And now, with the permission of the Tribunal, and because it is a terrible accusation, I'm quoting a few sentences from this document, because the Prosecution, too, has read these sentences into the record. The document goes on to say:

"I was aware that I would never carry this order out." This is Gerdes talking. "Since the action 'Cloud A-1' had long since been carried out and couriers from Kaltenbrunner kept arriving, I was supposed to discuss details regarding this action. I was supposed to have discussed them with the Kreisleiter concerned. The couriers which in most cases were SS officers, mostly SS Untersturmfuehrers, used to give me brief and sharp orders for me to read and showed me messages and threatened me with severe punishment, including execution, in case of disobedience. I could always excuse the failure to carry out the plan with bad flying weather or with lack of petrol or lack of bombs.

"Consequently, Kaltenbrunner ordered that the Jews should be marched from Landsberg to Dachau, so that they should be included in the extermination action which was going on at Dachau, whereas the action at Muehldorf was to be carried out by the Gestapo. The orders for the concentration camp at Dachau, which Kaltenbrunner gave, were given the name 'Cloud Fire.' The inmates of the concentration camps at Dachau, with the exception of the Aryan members of the western powers, were to be liquidated with poison. Gauleiter Giesler received that order directly from Kaltenbrunner and in my presence he discussed them with the Health Officer, Dr. Harfeld, and talked about the finding of the necessary amount of poison. Dr. Harfeld promised that the necessary amount,

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in accordance with the order, would be obtained, and he received instructions to wait for my further orders.

"Since I wished to prevent this action from being carried out at all events, I gave no further instructions to Dr. Harfeld. The inmates of the camp at Landsberg had hardly arrived at Dachau when a courier from Kaltenbrunner ordered the beginning of the action which was called 'Cloud Fire'. The execution of the two actions were prevented by me in that manner and I stated to Giesler that the front line was too near and that the execution was to be left to Kaltenbrunner.

"Kaltenbrunner gave written instructions to Dachau that all detainees who were members of the Western European Powers were to be loaded on to lorries and transported to Switzerland, whereas the remaining inmates were to be marched afoot into the Tyrol, where the final liquidation of the detainees would be carried out with due speed."

Perhaps you can explain in a few words and without going into detail whether this document is the truth or whether it isn't.

A This document is utterly and completely untrue. But, Doctor, I must have an opportunity to define my views. I must be given an opportunity to clarify the case.

Q You have already defined the attitude. If, over and above that, you have to say anything important, then you can state it now

A This appears to be important to me. According to his statement, I must have had dozens of couriers during my stay in Austria. The persons with me consisted of two men, my driver and my administrative adjutant, his name was Scheitler, and I must say that there were three of us. I wouldn't have had any possibility to dispatch all these couriers at that time. As far as Bavaria was concerned, I had no cause whatever to give any instructions, not even on Himmler's behalf. Why?

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Because, as far as Bavaria is concerned, plenipotentiary powers were given to Obergruppenfuehrer Berger. The same day I was given my plenipotentiary powers for Austria. So that there was no reason for me to take this action. And, certainly, such insane orders concerning the concentration camp couldn't even be contained in my heart.

If, at the same time I am working for the exact opposite, for some one else, and I'm thinking of Mathausen, where the order I had given was that the camp was to be handed to the enemy undamaged and in good order, and, if you want to put yourself into Himmler's place, then it would have been completely wrong, since the real crimes were in Mathausen, whereas the people in Dachau were not so badly implicated. So that, even if you could join Himmler's thought that the exact opposite would have been necessary, from that point of view, too, it is completely insane to accuse me of any such action.

Q Finally, the Prosecution held you responsible for the fact that you, as the Chief of the Security Police and the SD, were responsible for the persecution of the church, particularly the Catholic Church, and that you had tolerated it. I am telling you in this connection that Department B-2 of Amt-IV was occupying itself with politically Catholic questions. Do you know anything regarding the fact that within that department there was a two-fold policy regarding the churches which had a so-called "nearer" and "farther" aim. The conception of the nearer aim was that the churches could not get back a single inch of ground,; and from the further aim on understood that finally, at the end of the war, the churches in G ermany were to be destroyed. What do you know about these tendencies?

A All I can say about that is that these theoretical statements you've just made weren't known to me at all. The church policy of the Reich, as I recognized it in '43, was different. In 1943, Hitler's views were decisive, and there was a sort of temporary peace regarding the fight against the churches, for the duration of the war at any rate. So that, in other wrds, wherever possible, any attacks should be refrained from

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and only if any individual personal instructions would arise and would come from members of the church, they would be proceeded against.

Q May I interrupt you. I am asking you. Did you in the spring of '43--

A Yes, I want to come to that.

Q Did you do anything in the presence of Hitler and what was the success?

A Well, I just wanted to give you a picture of the state of affairs which I found. I also found that, in spite of Hitler's attitude Bormann was continuing to fight against the churches actively. So that, as early as March, I wrote to Hitler, and later on verbally addressed him on the same question, and asked him to clarify the policy for the churches and asked him to alter it. But in the main, I wanted a different type of policy for the Vatican.

Q I don't think there is any need for you to go into too much detail.

A But I was prevented from doing so because, first of all, Himmler turned against me; and, secondly, I found the strongest resistance on Bormann's part, who even went as far as telling the German Ambassador to the Vatican, Weizaecker--rather, he undermined his reputation by sending a stooge, who had to guard him.

Q That's enough about that one.

DR. KAUFMANN: Mr. President, do you want me to go on because it is now five.

THE PRESIDENT: If you can finish in a short time, we would like you to go on. How long are you going to be?

DR. KAUFFMANN: I would say it would take me about another hour, since I must discuss those documents which have been submitted by the Prosecution.

THE PRESIDENT: Before we adjourn, I will say the Tribunal will sit on Saturday in open session until one o'clock.

(Whereupon the hearing o f the Tribunal adjourned to reconvene at 1000 hours on 12 April 1946